

APPEAL NO. 990693

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 16, 1999. With respect to the issues before her, the hearing officer determined that (decedent) did not sustain a compensable heart attack on \_\_\_\_\_, that resulted in his death. In her appeal, the appellant (claimant beneficiary) argues that the hearing officer's determination that the decedent did not sustain a compensable heart attack under Section 408.008, which resulted in his death, is against the great weight of the evidence. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

It is undisputed that on \_\_\_\_\_, the decedent was working as a maintenance worker for (employer). The decedent was installing computer cable in the ceiling on November 19th and 20th. While decedent was performing his work activities, he collapsed. An ambulance was called and the decedent was taken to the hospital. The decedent was diagnosed as having suffered cardiac arrest and he died.

Dr. S, the medical examiner who performed an autopsy on the claimant, testified that the cause of the decedent's death was cardiac dysrhythmia of undetermined etiology. Dr. S stated that the autopsy did not reveal any evidence of a preexisting heart disease or condition in the decedent; thus, he stated that the dysrhythmia was not the result of a natural progression of a preexisting disease or condition. Dr. S testified that the decedent received a stimulus to his nervous system that caused his heart to stop beating. He further testified that he could not answer the question of whether the cardiac dysrhythmia was caused by the employment. Dr. S maintained that the cause was undetermined and that he has "no way of knowing" the cause. On cross-examination, Dr. S stated that to a reasonable degree of medical certainty the decedent died of cardiac dysrhythmia but that he does not know what caused the dysrhythmia.

Section 408.008 provides:

A heart attack is a compensable injury under this subtitle only if:

- (1) the attack can be identified as:
  - (a) occurring at a definite time and place; and
  - (b) caused by a specific event occurring in the course and scope of the employee's employment;

- (2) the preponderance of the medical evidence regarding the attack indicates that the employee's work rather than the natural progression of a preexisting heart condition or disease was a substantial contributing factor of the attack; and
- (3) the attack was not triggered solely by emotional or mental stress factors, unless it was precipitated by a sudden stimulus.

The hearing officer determined that the decedent did not sustain a compensable heart attack on \_\_\_\_\_, which resulted in his death. In so doing, the hearing officer noted "the evidence showed that the heart attack did occur at a definite time and place. However, the evidence was insufficient to show the remaining criteria for compensability was met." In her appeal and at the hearing, the claimant beneficiary makes much of the fact that the autopsy did not reveal evidence of a preexisting cardiac disease or condition. While that factor is significant, it is not determinative. That evidence is sufficient to show that the dysrhythmia was not caused by the natural progression of a preexisting disease or condition, but in ruling out natural progression, the claimant has not demonstrated the causal connection between the decedent's work activities and the dysrhythmia. The claimant beneficiary had the burden of proving that the decedent's work "was a substantial contributing factor" of the dysrhythmia. It is here that the claimant beneficiary's evidence falls short. Dr. S testified, as he had stated in his autopsy report, that the decedent's dysrhythmia was of undetermined etiology. That is, Dr. S stated that he does not know the cause of the dysrhythmia and could not opine that the decedent's work activities, which he characterized as strenuous, were a substantial contributing factor (a cause) of the dysrhythmia. In the absence of such evidence, the hearing officer properly determined that the claimant beneficiary had simply failed to sustain her burden of proving compensability under Section 408.008.

The hearing officer's decision and order are affirmed.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Alan C. Ernst  
Appeals Judge

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Dorian E. Ramirez  
Appeals Judge