

APPEAL NO. 991225

Following a contested case hearing held on May 25, 1999, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the disputed issues by determining that the appellant's (claimant) heart attack, pulmonary problems, stroke, and high blood pressure are not causally related to his compensable heat stroke injury of _____, and therefore not compensable, and that claimant had disability from the compensable heat stroke injury from May 29 to September 15, 1998, only. Claimant appeals, asserting that his medical records establish that his preexisting heart, pulmonary, and blood pressure problems were dormant and asymptomatic before the heat stroke and that those conditions were aggravated by the heat stroke. He further contends that because the other conditions were aggravation injuries, he has had disability after September 15, 1998. The respondent (carrier) urges in response that the evidence is sufficient to support the challenged findings and conclusions.

DECISION

Affirmed.

It was not disputed that claimant sustained a compensable heat stroke injury on _____, nor does claimant take issue with the hearing officer's determination that expert medical evidence is required to prove that claimant's heart attack, pulmonary problems, stroke, and high blood pressure problems were caused by the compensable heat stroke injury.

Claimant takes no exception to the hearing officer's recitation of the evidence which stated that on _____, while working as a tree cutter and truck driver for (employer), claimant suffered a heat stroke that afternoon and was treated with fluids and medication; that while recuperating at home from the heat stroke, he suffered a mild heart attack; that since _____, he has experienced severe breathing problems not present before that date; and that he was diagnosed with having suffered a mild stroke in December 1998.

Claimant testified that he is 55 years of age; that before his heat stroke he smoked between one and one-half and two packs of cigarettes per day for 40 years but had not been diagnosed with any smoke-related condition; that after being treated for heat stroke he had breathing problems and had a heart attack while sitting on his front porch on June 9 or 10, 1998; and that he was treated by Ms. B, a nurse practitioner; by Dr. J, a resident at (hospital); and by Dr. C who told him the heat stroke was "like a chain reaction" in that "his lungs got hot," the "fluid burned," and he lacked sufficient oxygen. He also said he did not work between June and September when Dr. J "released [him] from the heat stroke" but would not allow him to return to work because of the heat stroke "complications" including breathing and heart problems. As for the stroke, claimant stated that in December 1998, he was sitting in a chair at home and next remembered being on the floor and unable to move his arm and leg correctly. He said that Ms. B found his blood pressure to be 183 over 110 and told him he had experienced a "slight stroke." Claimant also said that Dr. O

told him he could only perform clerical work indoors and that the employer had none for him, and that he has not worked since his heat stroke.

Ms. B wrote on October 24, 1998, that claimant came to the clinic on June 1, 1998, and was diagnosed with heat stroke and fatigue; that on June 8, 1998, he complained of shortness of breath and pressure in the chest; that until June 1, 1998, to the best of her knowledge, claimant had not had any cardiac problems but has had respiratory problems such as bronchitis and asthma; and that "[i]t is possible that the heat stroke did further damage to his lungs, placing excessive strain on his heart which lead to cardiac complications."

Dr. J's records reflect that on June 26, 1998, he diagnosed status post heat stroke, chronic obstructive pulmonary disease (COPD), and control margin separation (left) and that on July 3, 1998, he added nicotine dependence.

Dr. O's January 16, 1999, report of his examination states that he does "not see a relationship of the work related heat stroke and the arterial sclerosis that contributed to his MI and stroke," that he does not find documentation to support the claim that the heat stroke exacerbated the emphysema but that he would defer to the opinion of a pulmonologist, and that claimant is at maximum medical improvement from the heat stroke.

Dr. A, a pulmonologist, wrote to claimant on May 24, 1999, that he had reviewed the medical records claimant forwarded and that based on claimant's smoking history and review of the medical records, the most likely etiology of claimant's severe airways obstruction is underlying emphysema. Dr. A further stated that in his opinion, the COPD reduced claimant's physiologic capability to tolerate heat illness but that he does not feel that claimant's COPD is causally related to nor was exacerbated by his alleged occupational heat stroke.

The hearing officer found that claimant's compensable injury of _____, does not extend to or include a heart attack, pulmonary problems, stroke, or high blood pressure, and that claimant's inability after September 25, 1998, to earn his preinjury wage equivalent was not the result of an injury for which workers' compensation benefits are payable. We are satisfied that these findings, and the dispositive conclusions of law, are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Dorian E. Ramirez
Appeals Judge