

APPEAL NO. 001480  
FILED AUGUST 8, 2000

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 June 1, 2000, in \_\_\_\_\_, Texas, with \_\_\_\_\_ presiding as hearing officer. He determined that the respondent (claimant) sustained a compensable occupational disease injury and that the claimant had disability. The appellant (carrier) appeals the injury and disability determinations. Carrier also complained regarding the denial of a continuance and the exclusion of evidence. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We reverse and render.

Carrier contends the hearing officer erred in determining that claimant sustained a compensable injury and that he had disability. Carrier contends that claimant did not work for (employer) during the claimed chemical exposure and that the medical evidence does not establish causation. Carrier also complains of the denial of a continuance and of the exclusion of certain evidence.

Claimant testified regarding his exposure at work to trichloroethylene (TCE), beginning in \_\_\_\_\_. Claimant said that he worked at the same "Axelson plant," but that his employer changed over the years due to buyouts and mergers. Claimant said that employer bought the company in \_\_\_\_\_. In Texas Workers' Compensation Commission Appeal No. 951601, decided November 13, 1995, we affirmed a finding of a chemical exposure injury where the injury was found by the hearing officer to be caused by an exposure to hydrocarbons present at the worksite. In that case the evidence not only identified the offending chemical, but analyzed the effects of the exposure in terms of that chemical. See also Texas Workers' Compensation Commission Appeal No. 93885, decided November 15, 1993. However, in this case, the medical evidence offered by claimant from (Dr. L) discussed claimant's various types of exposures to TCE during the years from \_\_\_\_\_. Clearly, this medical evidence concerns exposures that took place before employer bought the company. At the hearing, carrier's attorney asserted that the "last injurious exposure" took place before employer bought the company. Claimant did have the burden to prove an injury was sustained *in the course and scope of employment with employer*. Proof regarding this kind of causation requires expert medical evidence. Texas Workers' Compensation Commission Appeal No. 992713, decided January 20, 2000. Because there is no medical evidence concerning causation and any exposure during the period when claimant worked for employer, we must reverse the hearing officer's determination that claimant sustained a compensable injury during the course and scope of his

employment with employer and that he has disability.<sup>1</sup> We note that, at the hearing, there was some confusion regarding the date of injury for timely reporting purposes and the concept of last injurious exposure. These issues are discussed in Texas Workers' Compensation Commission Appeal No. 982661, decided December 30, 1998 (Unpublished). Because we have reversed and rendered in carrier's favor, the complaints regarding the motion for continuance and exclusion of evidence are moot and need not be addressed.

We reverse the hearing officer's decision and order and render a decision that claimant did not sustain a compensable injury and that he did not have disability.

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Alan C. Ernst  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge

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<sup>1</sup>Claimant testified regarding continuing exposure, but Dr. L's reports concerned the period before employer owned the company.