

APPEAL NO. 010312

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 January 24, 2001. In response to the issues at the hearing, the hearing officer determined that: (1) the heart attack of the respondent (claimant) was caused by digging ditches at work for more than two hours; (2) claimant's work was a substantial contributing factor of the heart attack; (3) claimant's heart attack was not the natural progression of a preexisting heart condition or disease; (4) claimant's heart attack is compensable; and (5) claimant had disability from September 19, 2000, to September 26, 2000. Appellant (carrier) appealed the determinations on sufficiency grounds, asserting that claimant failed to prove that his work, rather than the natural progression of a preexisting heart condition or disease, was a substantial contributing factor of the attack. Claimant responded that the Appeals Panel should affirm the determinations regarding the compensability of the heart attack. Claimant apparently sought to appeal the disability determination; however, the response was not timely as an appeal and we will not consider it as such.

DECISION

We affirm.

The applicable law and our standard of review are discussed in Texas Workers' Compensation Commission Appeal No. 992740, decided January 26, 2000. The matters carrier raised in its brief involved fact issues, which the hearing officer resolved. A review of the decision and order indicates that, based on the medical evidence, the hearing officer found that claimant's work, rather than the natural progression of a preexisting heart condition or disease, was a substantial contributing factor of claimant's heart attack. We conclude that the hearing officer's determination is 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).

We affirm the hearing officer's decision and order.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge