

APPEAL NO. 011743  
FILED SEPTEMBER 6, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The record was closed on a decision on remand on July 3, 2001. In Texas Workers' Compensation Commission Appeal No. 010909, decided June 5, 2001, the Appeals Panel reversed the hearing officer's decision as not being supported by the medical evidence and remanded the case for the hearing officer to consider certain appellate court and Appeals Panel decisions. The hearing officer did so and subsequently determined that the respondent (claimant) sustained a compensable (stroke) injury on \_\_\_\_\_, and had disability from August 10, 2000, and continuing through the date of the original contested case hearing.

The appellant (carrier) appeals, contending that a confrontation the claimant had with his supervisor did not cause a blood clot associated with the claimant's stroke and that the confrontation with the supervisor was "a legitimate personnel action." The claimant responds, arguing affirmance.

DECISION

Affirmed.

The background facts are set out in Appeal No. 010909 and will not be repeated in detail here. The claimant had attended a meeting with his supervisor, which ended in a heated confrontational argument. Either during the argument or very shortly thereafter the claimant suffered a stroke (or cerebrovascular accident (CVA)). At issue is the causation of the stroke. As we commented in Appeal No. 010909, the only medical evidence regarding causation is the testimony and medical report of Dr. B, a medical doctor board certified in internal medicine and experienced in treating strokes. Although Dr. B testified in general that a stroke is physically caused by a clot in a blood vessel of the brain, in the claimant's case Dr. B testified, within "medical probability," that the claimant's "confrontation at work was a definite contributing factor" to the claimant's stroke. Dr. B also testified that a long history of hypertension (which the claimant did not have), high blood pressure (which claimant did have), diabetes (which the claimant had), smoking, and high cholesterol were all matters which could factor in the causation of a stroke. In a report cited in Appeal No. 010909, *supra*, Dr. B wrote, "[Claimant's] stroke on \_\_\_\_\_, I think was in a large part a result of the confrontation in the office rather than long standing hypertension."

Our concern with the hearing officer's original decision was based on the hearing officer's comment regarding a "pre-existing blood clot" moving into a capillary and "would be transported into the capillaries in the brain." We held that there was no medical evidence of a preexisting blood clot in the circulatory system. On remand the hearing officer recited Dr. B's testimony and commented that the "medical records do not mention a blood clot but rather state that the stroke was caused by hypertension." The hearing

officer also commented that the carrier provided no medical evidence to the contrary. The hearing officer found that the claimant's "stroke was caused by or precipitated by the elevated blood pressure resulting from the emotional stimulus of the Claimant's discussion with his supervisor . . . ." That finding is supported by Dr. B's testimony.

The carrier appealed, arguing that the confrontation with the supervisor did "not cause a blood clot, infarction on hypertension" and that the claimant "was engaged in a legitimate personnel action." Section 408.006(b) entitled "MENTAL TRAUMA INJURIES" provides, in part, that mental or emotional injuries arising from a legitimate personnel action are not compensable; however, the hearing officer found, and we agreed in Appeal No. 010909, *supra*, that this case does not involve a mental trauma injury and that Section 408.006 is not applicable.

The hearing officer's decision is supported by the evidence and is not against the great weight and preponderance of the evidence. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In that the carrier's appeal on the disability issue is premised on the fact that the claimant had not sustained a compensable injury and we are affirming that he did, we also affirm the hearing officer's determination on disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750  
COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Robert W. Potts  
Appeals Judge