

APPEAL NO. 012543
FILED DECEMBER 4, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on September 11, 2001, the hearing officer determined that the appellant (claimant) did not sustain a compensable occupational disease injury on _____, while in the course and scope of his employment with the employer. The claimant's request for review of that determination is essentially a challenge to the sufficiency of the evidence to support it. The respondent (carrier) urges in response that the evidence is sufficient to warrant our affirmance.

DECISION

Affirmed.

The claimant testified that on _____, while cleaning a pipeline tool in a steam bay for approximately three hours, he was exposed to some chemical, or chemicals, which by the end of the day resulted in his having difficulty breathing, a very high fever, headaches, excessive perspiration, and feeling sick, and that because any number of chemicals or toxic substances were present in the steam bay area as well as on the pipeline tool he cleaned, he cannot identify the particular chemical or toxic substance which caused his illness. He stated that when his symptoms did not clear up, he went to a hospital emergency room (ER) on September 2, 2000, and asked the attending physician to draw a sample of his blood for testing for chemical exposure but that the doctor declined to do so, diagnosed him with bronchitis, gave him medications, and sent him home. The ER doctor's notes reflect that the claimant was "worried about chemical exposure." The claimant further testified that when he visited a medical clinic on September 12, 2000, his chest x-ray was normal and that a blood test showed the presence of low levels of lead and arsenic; and that he was hospitalized from September 15 to 20, 2000, for treatment of his symptoms. He said his pulmonary medicine specialist, Dr. N, told him that he felt the claimant had been exposed to some chemical that made him sick but that such exposure could not be proven because a blood analysis was not timely performed. Dr. N's report of December 28, 2000, states that while his clinical impression was that the claimant's symptoms were related to exposure and the clinical scenario and the inability to find an infectious etiology "makes chemical exposure the likely cause," such could not be proven through objective measures or tests.

The claimant had the burden to prove that his claimed occupational disease injury was work related and not an ordinary disease of life such as the bronchitis with which he was diagnosed. Given the nature of the claimed illness, proof of causation required expert medical evidence. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.); Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980). The claimant as much as conceded that he lacked the expert evidence necessary to meet his burden of proof, faulting the ER doctor

for not ordering the blood testing he requested. We are satisfied that with the evidence in this posture, 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. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (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.

The true corporate name of the insurance carrier is **UNITED PACIFIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

TIMOTHY J. McGUIRE
633 NORTH STATE HIGHWAY 161, SUITE 200
IRVING, TEXAS 75038.

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge