

APPEAL NO. 970148

This appeal is brought pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 31, 1996. He (hearing officer) determined that the respondent (claimant herein) sustained a compensable heart attack on \_\_\_\_\_, and that she had resulting disability from \_\_\_\_\_, to May 31, 1996. The appellant (carrier herein) appeals, arguing that these determinations are not supported by sufficient evidence. The claimant replies that the decision is correct and should be affirmed.

DECISION

Affirmed.

The claimant worked as a flight attendant. She testified that she arrived at the airport for a departing flight on \_\_\_\_\_, where she signed in with the employer and boarded a tram to go to the departure gate. The vehicle broke down for a period of about 15 minutes during which time the doors were locked. Fearing she would be late for her flight, she testified that once she got off the tram she ran to the departure gate with her luggage. Along the way she was picked up by passenger cart. She boarded the plane complaining of upper arm pain and difficulty breathing. The captain advised her not to fly. She got off the plane, went to a local medical facility and was transported to an emergency room where she was diagnosed with a myocardial infarction (heart attack). The carrier does not deny that the claimant had a heart attack, only that it was compensable. Medical records disclosed a family history of heart disease, preexisting high cholesterol counts, and atherosclerosis from 30% to 50% in three arteries. Cardiac catheterization was performed.

Section 408.008 provides:

A heart attack is a compensable injury . . . only if:

- (1) the attack can be identified as:
  - (a) occurring at a definite time and place; and
  - (B) caused by a specific event occurring in the course and scope of the employee's employment;
- (2) the preponderance of the medical evidence regarding the attack indicates that the employee's work rather than the natural progression of a preexisting heart condition or disease was a substantial contributing factor of the attack; and
- (3) the attack was not triggered solely by emotional or mental stress factors, unless it was precipitated by a sudden stimulus.

The proof of Section 408.008(1) can be made through lay testimony, but the standard of

Section 408.008(2) must be met with expert medical evidence. Such expert evidence must:

indicate that the effect of the work being performed by the employee was a substantial contributing factor when balanced against the natural progression of a pre-existing heart condition or disease. There can be more than one substantial contributing factor, so long as the work is a greater factor than the natural progress of any underlying heart condition or disease. Texas Workers' Compensation Commission Appeal No. 91009, decided September 4, 1991.

Texas Workers' Compensation Commission Appeal No. 93582, decided August 23, 1993.

The hearing officer found that the claimant's heart attack was compensable. The carrier appeals only the finding of the hearing officer that the claimant's heart attack of \_\_\_\_\_, was caused by her work rather than the natural progression of her preexisting heart condition or disease. It argues that the claimant's medical evidence did not reflect the proper application of the balancing test, that is, that within reasonable medical probability, the work was a substantial contributing factor as opposed to the natural progression of a preexisting heart condition and, for this reason, did not establish the compensability of the claimant's heart attack.

Introduced into evidence were the opinions of Dr. O, the staff cardiologist where the claimant was treated; of Dr. G, a treating doctor; and of Dr. D., a carrier-selected doctor.

Dr. O wrote in a letter of February 20, 1996:

It is my opinion that the circumstances at her work led to an elevation of her blood pressure and an outpouring of catecholamines and adrenaline which indeed could have precipitated a heart attack. She has underlying atherosclerosis and certainly stress as well as anxiety has potentially caused her to have an acute myocardial infarction. This appears to be work-related, in my opinion.

In a letter of May 3, 1996, Dr. O wrote that the claimant:

did sustain an acute myocardial infarction or "heart attack" . . . the heart attack did occur while she was at work at the airport and while she was stranded on an air-trans trying to reach her gate for an upcoming flight in the course and scope of her employment . . . I believe that she definitely had a crisis situation leading to extreme stress and an adrenaline surge which definitely precipitated a heart attack. This appears to be work related, in my opinion.

The carrier argues that these statements consisted simply of a list of factors involved in this heart attack and that no effort was made to apply a balancing test to the listed work factors and underlying disease to support the opinion that the heart attack appeared to be work

related.

In a letter of August 29, 1996, Dr. G wrote that, in his opinion, the heart attack "was directly related to work at the airport." He said that the claimant's extreme stress and an adrenaline surge "obviously caused her to have a heart attack" as well as the "sudden stimulus" of running. He also mentioned the family history of cardiac problems and the claimant's preexisting coronary artery disease, but noted no previous history of coronary events and a normal stress test a year before. The carrier argues that these statements do not rule out the coronary artery disease as a "substantial contributing factor" or affirmatively state that her work was a "substantial contributing factor."

In a letter of October 18, 1996, Dr. D notes the claimant's history and current condition and concludes:

It seems clear from reviewing her records that the heart attack in her case was clearly precipitated by acute events revolving around her work situation. Clearly, she had underlying reasons which were a prelude to this event, but since she only had a 50% lesion after resolution of her thrombus, it seems clear that the thrombosis was precipitated by plaque rupture which in turn was related to the very stressful stimulus which she described. Therefore, I conclude that her heart attack was related to her occupational situation on the date that it occurred.

The carrier again argues that Dr. D either does not address causation or does not apply a balancing test to the various possible causes of the heart attack.

To support its position, the carrier relies on our decisions in Texas Workers' Compensation Commission Appeal No. 951257 (Unpublished), decided September 11, 1995, and Texas Workers' Compensation Commission Appeal No. 93121, decided April 2, 1993. In Appeal No. 951257, *supra*, we affirmed the decision of the hearing officer that the claimant failed to prove he sustained a compensable heart attack. There we wrote:

We have noted on several occasions that [Section 408.008] requires a comparison or weighing between the conditions leading to the heart attack. It is insufficient if the medical evidence indicates that the work was a factor related to the attack. The preponderance of the medical evidence must indicate that the work rather than the natural progression of a preexisting heart condition or disease was a substantial contributing factor. [Citation omitted.]

In that case, none of the medical evidence contained an opinion on the cause of the heart attack or whether the work activities were a substantial contributing factor. Claimant's own opinion to this effect was not probative evidence on the issue of causation in the absence of medical evidence. This is distinguishable from the case before us where the medical evidence does address causation and the focus has become the adequacy of that evidence.

Appeal No. 93121, *supra*, reversed the decision of the hearing officer which found the claimant's heart attack compensable and rendered a decision that the heart attack was not compensable. In doing so, the decision extensively reviewed existing case law and noted that it was the substance of the expert testimony, not the use of so-called "magic words" that should be considered. In that case, the heart attack actually occurred the day after the on-the-job exertion. The cardiologist's opinion was that there probably was a plaque rupture at the time of the exertion, but that the next day the claimant "did evolve and sustain an anterior wall myocardial infarction." Because of this temporal relationship, he thought the two events were "probably related." The other expert was unable to reach a conclusion as to causation. In reversing the hearing officer's finding of a compensable injury, the Appeals Panel concluded that the phrase "probable relationship" between the events at work and the preexisting condition did not meet the claimant's statutory burden of proving the compensability of the heart attack. This is unlike the case we now consider where none of the medical evidence is self-limited by the notion of "probable relatedness."

The expert opinions in the case before us do not use the precise words of the statute. And certainly the simple recitation of the background events preceding the heart attack do not constitute evidence of causation. These doctors do, however, catalogue the circumstances of the claimant's case, in particular, her preexisting condition as well the physical stress at work. From these lists of causes, they concluded that the claimant's heart attack was work related. These opinions did more than simply list work as one among several factors causing the heart attack, but offered a balancing of the causative factors. See Appeal No. 951257, *supra*, and Texas Workers' Compensation Commission Appeal No. 951675, decided November 22, 1995. It was not necessary, as the carrier suggests, that the medical evidence relied on by the claimant also expressly state what were not substantial contributing factors. We believe that this evidence was sufficient to establish that the claimant's work, including the physical stress of the running, with the accompanying adrenaline rush, rather than the natural progression of her preexisting condition was a substantial, contributing cause of the heart attack. The hearing officer obviously found this evidence both probative and persuasive on the issue of the compensability of the claimant's heart attack. Under our standard of review, we decline to reverse that determination. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

Finally, the carrier appeals the determination regarding disability on the basis that the heart attack was not compensable. Having found the heart attack compensable, we also find the evidence sufficient to support the determination of disability.

For the foregoing reasons, we affirm the decision and order of the hearing officer.

Alan C. Ernst  
Appeals Judge

CONCUR:

---

Stark O. Sanders, Jr.  
Chief Appeals Judge

---

Elaine M. Chaney  
Appeals Judge