

FINAL AWARD DENYING COMPENSATION
(Affirming Award and Decision of Administrative Law Judge
with Supplemental Opinion)

Injury No. 12-048291

Employee: Ulysses White, deceased
Claimant: Patricia White, surviving spouse
Employer: ConAgra Packaged Foods, LLC
Insurer: Old Republic Insurance Co.

This workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having read the briefs, reviewed the evidence, heard the parties' arguments, and considered the whole record, we find that the award of the administrative law judge denying compensation is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to § 286.090 RSMo, we affirm the award and decision of the administrative law judge with this supplemental opinion.

Discussion

Accident

The administrative law judge denied this claim on a finding that claimant failed to prove that employee suffered an "accident" as defined under § 287.020.2 RSMo, which provides, in relevant part, as follows:

The word "accident" as used in this chapter shall mean an unexpected traumatic event or unusual strain identifiable by time and place of occurrence and producing at the time objective symptoms of an injury caused by a specific event during a single work shift.

Employee died at work on June 30, 2012. Employee's death at work was an "unexpected traumatic event." We conclude that employee suffered an accident.

Medical causation

The parties asked the administrative law judge to determine whether "work was the prevailing factor in causing the alleged accident or occupational disease." *Transcript*, page 5. We take it that by invoking the "prevailing factor" test, the parties intended to dispute the issue of medical causation. Section 287.020.3(1) RSMo sets forth the general test for medical causation, and provides, in relevant part, as follows:

An injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability.

In addition, § 287.020.3(4) RSMo provides the following more specific provision with respect to cardiovascular injuries:

Employee: Ulysses White, deceased

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A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or myocardial infarction suffered by a worker is an injury only if the accident is the prevailing factor in causing the resulting medical condition.

Claimant's medical expert, Dr. Stephen Schuman, testified that employee's work activities on June 30, 2012, were the prevailing factor causing his death, because the weather was hot on that day, and the conditions in the machine shop where employee worked rendered his physical exertions more strenuous (and thus more demanding upon his heart) than they might otherwise have been.¹ While Dr. Schuman's general theory of medical causation is not, in our view, inherently incredible, after careful consideration, we are not sufficiently persuaded that Dr. Schuman possessed the necessary factual foundation to support his theory.

At best, Dr. Schuman understood that, at the time of his death on June 30, 2012, employee's work exertions included wearing a long-sleeved work uniform and hard hat, ambulating with a brace on his leg in connection with treatment for a recent heel fracture, and standing upright and operating a lathe. But although Dr. Schuman theorized the work activity of operating a lathe would include "some isometric component," he was not more specific as to the exertions he understood such work to entail, and ultimately admitted he had to "guess" what employee was physically doing on the morning of his death. *Transcript*, pages 61, 102, and 145-46.

Claimant did not present any other evidence to establish the physical exertions involved in employee's operation of the lathe in employer's machine shop. Consequently, we find insufficient evidence on this record to permit us to determine, for example, whether employee's work exertions at the time of his death should be categorized as light, medium, or heavy. Likewise, it is clear to us that Dr. Schuman did not possess such information before he rendered his relevant opinions in this matter.

Dr. Schuman also admitted he premised his opinion on the assumption that, with the exception of some possible breaks, employee was probably operating his lathe from around 6:30 a.m., until around 11:45 a.m. This assumption, however, is demonstrably incorrect: according to the uncontested testimony from employee's supervisor and coworkers, employee was not operating a lathe that entire time, but instead was involved in other activities, such as walking to a nearby water treatment plant at about 9:30 a.m., helping a coworker punch holes in a piece of Plexiglas at about 10:45 a.m., and taking a lunch break from 11:00 to 11:30 a.m. Dr. Schuman did not address these other activities or their possible role in the cardiac event that caused employee's death, because he was clearly unaware of them.

¹ We note that although the parties included an issue of "occupational disease" as one for determination by the administrative law judge, Dr. Schuman testified only as to an "accident" theory of injury, as he focused on employee's work conditions and exertions on the morning of his death. As a result, we are unable to consider whether, for example, the cumulative strain of working consecutive 12-hour days in hot weather may have played any role in the cardiac event that caused employee's death.

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Additionally, although Dr. Schuman pointed to the heat on June 30, 2012, as a necessary component of his opinion that employee's work activity was the prevailing factor causing employee's death, Dr. Schuman admitted he was not aware of the actual temperature that day. Critically, Dr. Schuman further admitted he was unaware of the ambient temperature within the machine shed where employee worked. Instead, Dr. Schuman relied purely on the generalized assertion from employee's coworker that "it was hot." *Transcript*, page 103.

While we have utmost sympathy for Ms. White, we cannot render an award of compensation on the basis of guesswork or speculation. Because we find Dr. Schuman insufficiently informed as to the relevant facts underlying his own theory of medical causation, we deem his testimony on the subject to be ultimately unpersuasive. Because the cardiac pathology leading up to and causing employee's death is, in our estimation, beyond the realm of lay understanding, we find that the failure to present persuasive expert testimony on the issue of medical causation prevents us from rendering an award in claimant's favor. *Bock v. City of Columbia*, 274 S.W.3d 555, 562 (Mo. App. 2008). We find that claimant has failed to meet her burden of proof with respect to the issue of medical causation. We conclude that employee's work activity of June 30, 2012, was not the prevailing factor causing his heart attack and death.

All other issues are moot.

Conclusion

We affirm and adopt the award of the administrative law judge as supplemented herein.

The award and decision of Administrative Law Judge Hannelore D. Fischer, issued June 1, 2015, is attached and incorporated herein to the extent not inconsistent with this supplemental decision.

Given at Jefferson City, State of Missouri, this 21st day of January 2016.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

John J. Larsen, Jr., Chairman

James G. Avery, Jr., Member

DISSENTING OPINION FILED
Curtis E. Chick, Jr., Member

Attest:

Secretary

Employee: Ulysses White, deceased

DISSENTING OPINION

Based on my review of the evidence as well as my consideration of the relevant provisions of the Missouri Workers' Compensation Law, I believe the administrative law judge's award should be reversed, because it is overwhelmingly clear to me that employee's work caused him to suffer the fatal heart attack of June 30, 2012.

I acknowledge the majority's concerns with regard to Dr. Schuman's testimony, but I must strongly disagree that the doctor had insufficient information to support his theory of medical causation. First of all, the evidence is uncontested that the weather on June 30, 2012, was *extremely* hot; all of the lay witnesses agreed on this point. In fact, it was so dangerously hot that employee's supervisor, Abraham Sellers, felt a need to have a special discussion with his employees on the morning of June 30, 2012. In that discussion, Mr. Sellers reminded his employees to be wary of the effects of heat stroke, to keep water nearby, and to watch out for one another. Especially given Mr. Seller's testimony, I find the majority's minimization of Dr. Schuman's understanding as merely "it was hot" to be an oversimplified and, frankly, an unfair reading of the evidence.

Second, it is also uncontested that the non-air-conditioned machine shop where employee worked was the hottest place to be working for employer on June 30, 2012, save possibly the boiler room. Employee routinely spent entire 12-hour shifts for employer in this hot and stuffy metal building, and according to the unanimous testimony from Mr. Sellers and employee's coworkers, employee was a dedicated worker who kept busy and worked tirelessly throughout his entire 24-year career with employer. Regardless of how we classify employee's usual work activity of running a lathe, Dr. Schuman indicated employee's mere presence in the machine shop on June 30, 2012, combined with the effects of wearing his long-sleeved uniform, hard hat, and foot brace, put an increased demand on employee's heart. Dr. Schuman very persuasively explained that we as human beings dissipate about 25% of our body heat through our heads, and that employer's work rule requiring employee to wear a hard hat automatically subjected employee to a much greater risk of overheating than the average individual, regardless of how strenuous his work was.

Thus, as Dr. Schuman repeatedly made clear during his deposition, the *exact* temperature in the machine shop or employee's *exact* movements in operating the lathe are simply not relevant to Dr. Schuman's theory of medical causation. Yet, the Commission majority wants to decide for Dr. Schuman what facts he should have emphasized. In other words, the Commission majority have appointed themselves the de facto medical experts in this case. But, as the courts have consistently declared, the members of this Commission are not permitted to substitute their own personal lay opinions for those of the testifying experts. See *Van Winkle v. Lewellens Prof'l Cleaning, Inc.*, 258 S.W.3d 889, 898 (Mo. App. 2008); *Angus v. Second Injury Fund*, 328 S.W.3d 294, 300 (Mo. App. 2010); and *Abt v. Miss. Lime Co.*, 388 S.W.3d 571 (Mo. App. 2012).

To the extent that Dr. Schuman's testimony was indefinite as to the *exact* details the Commission majority, in their lay opinions, deem necessary to support his causation opinion, the courts have also consistently declared that "[c]autious or indefinite expert

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testimony on medical causation combined with lay testimony can provide sufficient competent evidence to support causation of injury.” *Wright v. Sports Associated*, 887 S.W.2d 596, 600 (Mo. 1994). This principle is squarely on point in this case, where although Dr. Schuman did not provide the precise ambient temperature in the machine shop at the time employee died, every single witness who was actually there that day testified unanimously that it was very hot. Dr. Schuman clearly felt he had a sufficient factual basis to render his opinions, and he was not impeached with respect to his opinions or their factual foundation at any time during the remarkably lengthy and thorough cross-examination by employer’s counsel. As a result, having found employee suffered an accident, the Commission majority was required to perform their fact-finding duty and determine whether Dr. Schuman’s theory of medical causation was more or less persuasive than that advanced by employer’s expert, Dr. Michael Farrar. Notably, it appears from their decision that the majority would have ultimately credited Dr. Schuman, if they had not been lost in the quibbling details that Dr. Schuman himself found to be irrelevant.

I agree with the Commission majority’s (implied) finding that Dr. Schuman’s theory is more credible, where Dr. Farrar’s best competing argument was to point to an isolated high blood pressure reading based on a single doctor visit in April 2012 while employee was receiving treatment for an extremely painful heel fracture. Dr. Farrar was otherwise compelled to admit that employee’s blood pressure reading taken only a few months earlier in January 2012 was “excellent.” Dr. Farrar also tried to point to employee’s history of being a smoker over a decade ago as an “obvious” risk factor for coronary disease, but on cross-examination he had to admit that “past smoking doesn’t even make the list” of significant risk factors. In my view, Dr. Farrar was thus impeached, and the only remaining evidence on this record compels an award in claimant’s favor.

Employee did have some preexisting problems with his heart, but as claimant correctly and persuasively points out in her brief, employee was, from a cardiovascular standpoint at least, much healthier than the employee in the case of *Leake v. City of Fulton*, 316 S.W.3d 528 (Mo. App. 2010). At the time of his death at work from a heart attack, Alan Leake had the following preexisting cardiovascular risk factors: a 95% occlusion of both the left anterior descending artery and the right coronary artery, a significant prior heart attack, a concurrent history of smoking two packs per day, and an untreated high cholesterol condition. In contrast, Ulysses White had an 80% occlusion of the left anterior descending artery, a 60% occlusion of the right coronary artery, no prior heart attacks, was not a smoker at the time of his death and had quit over 10 years prior, and had been successfully treated for a history of high cholesterol.

In *Leake*, the Commission credited none other than Dr. Schuman—who offered a “demand side” theory of medical causation nearly identical to that provided in this case—and awarded death benefits to Mr. Leake’s surviving spouse. 316 S.W.3d at 532-33. This result was confirmed by the Missouri Court of Appeals. *Id.* at 533. I am convinced that if work was the prevailing factor causing Alan Leake to suffer a fatal heart attack despite his comparatively dire preexisting cardiovascular problems, work must also be deemed the prevailing factor that killed Ulysses White.

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With regard to the issue whether employee's death arose out of and in the course of his employment, the clear compensability of this case boils down to one simple question. If employee had not been at work on June 30, 2012, would he have been standing or sitting in a non-air-conditioned metal shed, fully clothed in his long-sleeved cotton work uniform, with a hard hat on his head, for twelve hours? The answer is obvious: of course not. Claimant has thus satisfied her burden with respect to the "unequal exposure" test under § 287.020.3(2)(b) RSMo. The fact that employer failed to even brief or argue this issue before the Commission suggests to me that employer tacitly recognizes that, if Dr. Schuman is believed, employee died *because* he was at work, not merely *while* he was at work. See *Gleason v. Treasurer of the State*, 455 S.W.3d 494, 500 (Mo. App. 2015).

In sum, I am convinced that employee's work for employer caused him to suffer the fatal heart attack of June 30, 2012. I would reverse the award of the administrative law judge and enter an award of funeral expenses and weekly death benefits in favor of employee's surviving spouse, Patricia White.

Because the majority has determined otherwise, I must respectfully dissent.

Curtis E. Chick, Jr., Member

AWARD

Employee: Ulysses White (deceased)

Injury No.: 12-048291

Dependents: Patricia White

Employer: ConAgra Packaged Foods, LLC

Additional Party: N/A

Insurer: Old Republic Insurance Co.
Sedgwick Claims Management Services

Before the
**DIVISION OF WORKERS'
COMPENSATION**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Hearing Date: March 25, 2015

Checked by: HDF/scb

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? No
2. Was the injury or occupational disease compensable under Chapter 287? No
3. Was there an accident or incident of occupational disease under the Law? No
4. Date of accident or onset of occupational disease: Alleged - June 30, 2012
5. State location where accident occurred or occupational disease was contracted: Alleged – Marshall, Missouri
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? No
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted:
See Award
12. Did accident or occupational disease cause death? No. Date of death? June 30, 2012
13. Part(s) of body injured by accident or occupational disease:
14. Nature and extent of any permanent disability: - 0 -
15. Compensation paid to-date for temporary disability: - 0 -
16. Value necessary medical aid paid to date by employer/insurer? - 0 -

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17. Value necessary medical aid not furnished by employer/insurer? - 0 -

18. Employee's average weekly wages: ----

19. Weekly compensation rate: \$707.73

20. Method wages computation: By agreement

COMPENSATION PAYABLE

21. Amount of compensation payable: - 0 -

22. Second Injury Fund liability: N/A

23. Future Requirements Awarded: None

Employee: Ulysses White (deceased)

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FINDINGS OF FACT and RULINGS OF LAW:

Employee: Ulysses White (deceased)

Injury No: 12-048291

Dependents: Patricia White

Before the
**DIVISION OF WORKERS'
COMPENSATION**

Employer: ConAgra Packaged Foods, LLC

Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Additional Party: N/A

Insurer: Old Republic Insurance Co.
Sedgwick Claims Management Services

Checked by: HDF/scb

The above-referenced workers' compensation claim was heard before the undersigned administrative law judge on March 25, 2015. Memoranda were filed by April 17, 2015.

The parties stipulated that on or about June 30, 2012, the employee, Ulysses White, was in the employment of Con Agra Foods Packaged Foods, LLC (ConAgra). The claimant is Patricia White, the widow of Ulysses White. The employer was operating under the provisions of Missouri's workers' compensation law; workers' compensation liability was both self-insured and insured by Old Republic Insurance Company; Sedgwick Claims Management Services is the third party administrator. The employer had timely notice of the injury. A claim for compensation was timely filed. The agreed upon compensation rate is \$707.73 per week. No temporary disability benefits have been paid. No medical aid has been provided.

The issues to be resolved by hearing include 1) whether there was an accident or occupational disease under Missouri's workers' compensation law, 2) whether the alleged accident or occupational disease arose out of and in the course of employment, 3) whether work was the prevailing factor in causing the alleged accident or occupational disease pursuant to Section 287.0203.(4), 4) the liability of the employer/insurer for medical bills in the amount of \$6,708.30, 5) the liability of the employer/insurer for the \$5,000.00 funeral benefits, and 6) the liability of the employer/insurer for ongoing death benefits from June 30, 2012 forward and continuing.

The parties have stipulated that should the claimant prevail, the employer/insurer would be liable for the \$5,000.00 funeral benefit.

FACTS

Patricia Florence White, the widow of Ulysses White, testified in person and by deposition that she had been married to Mr. White for 19 years. Ms. White testified that Mr. White's mother died of kidney failure and his father was in his late 80's when he died. Mr. White smoked until about 10 years ago and then quit. Mr. White took care of his yard, which was described by

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Mrs. White as about a quarter of a city block in size, using both a riding and a push mower. Mr. White also enjoyed the care and maintenance of what he called his "dune buggy", a 1960's VW.

Mr. White passed away on June 30, 2012; Mrs. White last saw him the evening before at supper. Mr. White was a machinist at ConAgra, at their Marshall, Missouri plant. Mr. White was on arthritis medication, blood pressure medication, and cholesterol medication at the time of his death according to Mrs. White. Mrs. White said that Mr. White had sustained a tendon injury in his foot and was seeing a doctor at the Columbia Orthopedic Group for his foot and had been in a brace for the injury at the time of his death. Mr. White normally worked 12-hour days six days a week at ConAgra. Mrs. White did not know how hot it was the day of Mr. White's death but presumed that it was 112 to 115 degrees the previous day.

Abraham Z. Sellers testified by deposition that he was Mr. White's supervisor on the day he died and that he had worked with Mr. White for about ten and a half years. Mr. White's job was working in the machine shop making parts such as sprockets and shafts for the production lines. Mr. White had been at ConAgra for about 30 years, according to Mr. Sellers, and he worked with mills and lathes. Mr. Sellers saw Mr. White prior to 5:00 am the morning of Mr. White's death. Mr. Sellers testified that he and Mr. White discussed the heat and its effect on employees the following week and the importance of full water buckets and watching out for heat stress among the employees. There was a planned power outage at ConAgra on the morning of June 30, 2012, and it was one of Mr. White's responsibilities on that morning to walk to the water treatment plant to make sure it was back online after power was restored, a process described by Mr. Sellers as taking 20 to 30 minutes. Mr. Sellers described a window in Mr. White's work area and a door on rollers in the vicinity of his work area as being open on June 30, 2012. Mr. Sellers also identified a discharge fan and another door on rollers which was open on June 30, 2012, as well as a ceiling vent and a pedestal fan which was operating on June 30, 2012. When Mr. Sellers was called to the fab shop where Mr. White worked for medical assistance, Mr. Sellers said the doors were all open and the fans were all operating and that it felt like there was air movement in the building and that it was five to seven degrees cooler than the outside air.

Charles Allen Vandiver testified by deposition that he worked in the fabrication shop with Mr. White and that he was a welder while Mr. White was a machinist. Mr. Vandiver and Mr. White had worked together in the fab shop for about 25 years, according to Mr. Vandiver. Mr. Vandiver ate lunch with Mr. White from 11:00 to 11:30 the day Mr. White died and Mr. Vandiver observed nothing unusual about Mr. White during the time they spent eating lunch. Mr. Vandiver said that he left the fab shop after lunch and went to put his time into the computer and was only gone for 15 to 20 minutes when he returned after receiving the call for assistance for Mr. White. Mr. Vandiver testified to the open doors described by Mr. Sellers, but described two pedestal fans as being in place whereas the pictures of the fab shop do not reflect the two pedestal fans. Mr. Vandiver said that Mr. White had a pedestal fan blowing on him and that it was cooler in the fab shop by about seven to eight degrees.

Jose F. Sanchez testified by deposition that he performs general maintenance for ConAgra. Mr. Sanchez said that he saw Mr. White about 45 minutes or an hour before he passed away when Mr. Sanchez asked him to drill some holes in pieces of metal and Plexiglas. Mr. Sanchez

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said that he spent about 15 to 20 minutes working with Mr. White on the drilling project and that there were no signs that he was having any problems nor did he say that he was having any problems. Mr. Sanchez said the doors in the fab room were open and that he could not recall whether the fans were operating. Mr. Sanchez said it was hot that day and referred to temperatures in the 90's.

Dr. Stephen Schuman, board certified in internal medicine and cardiology, testified by deposition that Mr. White's autopsy revealed an 80 percent blockage of the left anterior descending artery and a 75 percent blockage of the left circumflex artery. Dr. Schuman said that the compromise of blood flow or ischemia starts with a 70 percent blockage. When asked to define the most important factor that caused Mr. White to have a cardiac event on June 30, 2012, Dr. Schuman responded that it was "the physical work [Mr. White] was doing. When you're operating a lathe, you're using the upper extremities to some extent. There's some isometric component to that effort. He was doing that in a hot environment, and that is a type of pathologic stress on the cardiovascular system that could cause ischemia, electrical instability, cardiac arrest. It can cause infarction, a rise of troponin, those sort of problems. And if you add the additional problems, ambulating with a brace on his leg and whatever discomfort he was having in the foot and ankle, then that would add to additional stress, additional increased heart rate, blood pressure, coronary, tone, et cetera, on his cardiac work, basically on his cardiovascular system." Dr. Schuman went on to say that Mr. White was "in an indoor environment where it was probably hotter inside than outside, the environmental temperature, plus he was working. He was doing physical effort. There was a component with his arms working on the lathe. And he would have been more overheated than the average person with a brace on his leg, a long-sleeved shirt and a hard hat." (Schuman depo p19-20) Dr. Schuman admitted that Mr. White died of cardiac arrest from ischemia caused by an electrical disability or fibrillation which led to cardiac arrest and death. Dr. Schuman also admitted that Mr. White had an enlarged heart. Dr. Schuman stated that there was no evidence of Mr. White suffering unusual strain and said that "the prevailing factor of [Mr. White's] fatal cardiac arrest was his work activities that day. I didn't say it's an unusual strain that day. He did his usual work, and it was hot, and he had the underlying risk factors for a cardiac event. But the prevailing factor was his heart having to work extra hard, harder than his LAD 80 percent artery. Perhaps the others also were able to deliver adequate blood flow, and he had ischemia, lack of blood flow, and that led to electrical instability, probably a necrosis of heart muscle, as well, and that was a fatal cardiac event. I said it's related to work. I didn't say he has underlying heart disease. He had a large hypertrophied heart, an overweight heart and the coronary artery disease." (Schuman depo p82)

Dr. Michael Farrar, board certified in internal medicine, cardiology and echocardiography, testified by deposition that Mr. White's autopsy reflected a significantly thickened or enlarged heart, left ventricular hypertrophy, and severe coronary artery disease. Dr. Farrar opined that Mr. White died from ventricular fibrillation caused by myocardial ischemia or decreased blood supply caused by the combination of the coronary artery disease and the left ventricular hypertrophy. Dr. Farrar opined that Mr. White's sudden cardiac death was unrelated to his work in a hot environment. Dr. Farrar admitted that pain and being hot cause stress and that stress can be a trigger for a cardiac event. Dr. Farrar stated that heat stroke causes cell damage, primarily in the brain, but that ventricular fibrillation is not a common manifestation of heat stroke. Dr. Farrar explained that Mr. White's 80 percent blockage of the left anterior descending

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coronary artery caused less blood flow to the heart and that Mr. White's heart needed additional blood due to its enlargement to almost twice the weight it should have been. The restricted blood flow or ischemia caused irritation of the heart muscle which caused arrhythmia or ventricular fibrillation which caused death because the heart was no longer pumping blood uniformly.

US Government Weather Station Information regarding the temperature for the area (specifically, Brunswick) on June 30, 2012, indicates a high of 100 degrees and a low of 76 degrees with a mean temperature of 88 degrees Fahrenheit.

The autopsy report dated July 19, 2012 lists cardiac arrhythmia due to severe coronary artery disease as the cause of death. The report is signed by Edward H. Adelstein, M.D. The July 6, 2012 certificate of death lists the death as natural and reflects acute myocardial infarction-instant, failure of right side of heart-instant, cardiomegaly-unknown. Significant conditions are noted to be evidence of pericardial adhesions, coronary artery disease, and emphysema.

APPLICABLE LAW

RSMo Section 287.020.2 The word "accident" as used in this chapter shall mean an unexpected traumatic event or unusual strain identifiable by time and place of occurrence and producing at the time objective symptoms of an injury caused by a specific event during a single work shift. An injury is not compensable because work was a triggering or precipitating factor.

RSMo Section 287.020.3(1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out of and in the course of employment. An injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability. "The prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability.

(2) An injury shall be deemed to arise out of and in the course of the employment only if:

(a) It is reasonably apparent, upon consideration of all the circumstances, that the accident is the prevailing factor in causing the injury; and

(b) It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life.

(3) An injury resulting directly or indirectly from idiopathic causes is not compensable.

(4) A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or myocardial infarction suffered by a worker is an injury only if the accident is the prevailing factor in causing the resulting medical condition.

(5) The terms "injury" and "personal injuries" shall mean violence to the physical structure of the body and to the personal property which is used to make up the physical structure of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are placed in or on the body to replace the physical structure and such disease or infection as naturally results therefrom. These terms shall in no case except as specifically provided in this chapter be construed to include occupational disease in any form, nor shall they be construed to include any contagious or infectious disease contracted during the course of the employment, nor shall they include death due to natural causes occurring while the worker is at work.

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AWARD

The claimant, Patricia White, has failed to sustain her burden of proof that the employee, Ulysses White, sustained an accident or occupational disease. Mr. White was found dead at his place of work as the result of cardiac arrest. Both Dr. Schuman and Dr. Farrar agree that the mechanism of death was ischemia or lack of blood flow to Mr. White's heart which caused ventricular fibrillation and cardiac death. Both physicians also agree that the coronary artery could not supply adequate blood to Mr. White's heart. While Dr. Farrar does not believe that the temperature was a factor in the sequence of events leading to Mr. White's death, Dr. Schuman opines that the physical work at the lathe in a hot environment could cause ischemia, electrical instability, cardiac arrest, infarction and a rise of troponin. However, Dr. Schuman concedes that the prevailing factor was Mr. White's heart having to work harder than the severely compromised left anterior descending coronary artery would allow. In other words, Mr. White's heart needed more blood than the left anterior descending coronary artery which had a blockage of 80 percent could deliver. Even Dr. Schuman agreed that there was nothing unusual or different about Mr. White's work on June 30, 2012, only that the heart needed more blood than the artery could supply. Dr. Farrar and Dr. Schuman's opinion is supported by the autopsy report which also refers to cardiac arrhythmia caused by the severe coronary artery disease.

All other issues to be resolved are hereby rendered moot.

Made by: _____
HANNELORE D. FISCHER
Administrative Law Judge
Division of Workers' Compensation