

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE
March 26, 2007 Session

JAMES R. LANE v. CITY OF COOKEVILLE

**Direct Appeal from the Circuit Court for Putnam County
No. 05N0020 John Turnbull, Judge**

**No. M2006-00871-WC-R3-CV - Mailed - May 10, 2007
Filed - August 9, 2007**

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel in accordance with Tennessee Code Annotated § 50-6-225(e)(3) for hearing and reporting of findings of fact and conclusions of law. In this case, the trial court found the employee's heart attack to be compensable and awarded benefits for 20% permanent partial disability. The employer contends that the heart attack did not arise out of or occur in the course of his employment. The employee contends the amount of the award is inadequate. We reverse the trial court's finding that the heart attack was compensable and dismiss the employee's complaint.

**Tenn. Code Ann. § 50-6-225(e)(2)(2005) Appeal as of Right;
Judgment of the Circuit Court Reversed**

JERRY SCOTT, SR. J., delivered the opinion of the court, in which CORNELIA A. CLARK, J. and DONALD P. HARRIS, SR. J. joined.

Daniel H. Rader, III, Cookeville, Tennessee, for the appellant, City of Cookeville.

Joy Davis Giddens, Franklin, Tennessee, for the appellee, James R. Lane.

MEMORANDUM OPINION

I. FACTUAL BACKGROUND

The employee, James R. Lane, worked as a detective for his employer, the City of Cookeville Police Department. On the date of trial, he was 53 years old. He had been a policeman since 1977 and a detective since 1989. On the morning of Sunday, June 6, 2004, he sought treatment at the emergency room of the Cookeville Regional Hospital. It was determined that he was suffering from an acute myocardial infraction, a so called heart attack.

During the week prior to his heart attack, Mr. Lane was “on call.” This meant that he worked a regular shift from 1:45 p.m. to 10:00 p.m. Monday through Friday and went to work at other times as the need arose. He had worked 21 hours of on call overtime during the week in question. On Saturday, June 5, 2004, he was called in at 1:00 a.m. to investigate an aggravated assault. The incident involved several people who spoke only Spanish. Mr. Lane testified that the investigation was “nerve wracking” because of the language barrier. He stated that he was not threatened at any time during the investigation. His physical activities consisted primarily of examining the crime scene, interviewing witnesses and completing a written report. He completed his part of the investigation at 7:00 a.m.

Mr. Lane was then called upon to investigate a rape complaint. He went to the hospital and met the victim. The victim was then taken by someone else to the Cookeville Police Department, where Mr. Lane interviewed her. The victim was “very upset, emotional, crying.” He did not come into contact with any suspects and was not threatened in any way during that investigation. His physical activity appears to have consisted of driving to the hospital and interviewing the victim. Another officer wrote the report. Mr. Lane completed his portion of the investigation at noon. He went home, took a nap, did some housework and ran some errands. That evening, he went to dinner with friends at the International House of Pancakes. He was there from about 8:00 p.m. to 10:30 p.m. He reported that he had heartburn at that time. He returned home and went to bed.

At 1:30 a.m. on Sunday morning, he was called to the hospital to investigate a case of potential child abuse. A woman had an automobile accident as a result of driving while intoxicated. Her child had been a passenger in the vehicle and was injured in the wreck. He took photographs of the child and assisted other agencies in investigating the case. Mr. Lane testified that while he was at the hospital, he began having “strong heartburn pain” in his chest. He completed his duties at 4:30 a.m. He had worsening pain in his chest and then in his arm. He feared that he might be having a heart attack and drove himself to the hospital emergency room, arriving at 7:35 a.m. on June 6, 2004.

Dr. Robert Case, a cardiologist, first saw Mr. Lane in the emergency room that morning. He gave Dr. Case a history of substernal chest pain beginning at 8:00 p.m. the previous evening. His diagnosis was that Mr. Lane had suffered an acute myocardial infarction. Dr. Case released Mr. Lane to return to work without restriction on July 24, 2004. He opined that his patient had a class II impairment of 10%-29% to the body as a whole as a result of the heart attack. He stated Mr. Lane had completely recovered, characterizing the amount of permanent damage to his heart as “trivial.” In his deposition, Dr. Case also testified that the stress which Mr. Lane had experienced in the hours before his heart attack began “may have been a contributing factor.”

Dr. Hal Roseman, a cardiologist, testified in person at the request of the employer. He reviewed the relevant medical records and heard Mr. Lane’s trial testimony. He opined that there was no causal relationship between Mr. Lane’s job and his heart attack and noted that hearing Mr. Lane’s testimony “cemented” his opinion.

The trial court found Mr. Lane's heart attack to be compensable and awarded 20% permanent partial disability to the body as a whole.

II. ISSUES

Mr. Lane's employer contends that the trial court erred by finding that Mr. Lane's heart attack arose out of and in the course of his employment.

Mr. Lane contends that the award of permanent partial disability benefits in the amount of 20% to the body as a whole is inadequate.

III. STANDARD OF REVIEW

This Court reviews a trial court's findings of fact in a workers compensation case de novo upon the record of the trial court with a presumption of correctness, "unless the preponderance of the evidence is otherwise." Tenn. Code Ann. § 50-6-225(e)(2) (2005). When the trial court has seen the witnesses and heard the testimony, especially where issues of credibility and the weight of testimony are involved, we must extend considerable deference to the trial court's factual findings. *Mahoney v. NationsBank of Tenn., N.A.*, 158 S.W.3d 340, 343 (Tenn. 2005). However, we extend no deference to the trial court's findings when reviewing documentary evidence such as depositions. *Id.* As to questions of law, the standard of review is de novo with no presumption of correctness. *Id.*

IV. ANALYSIS

The trial court held that the employer had rebutted the "law enforcement" presumption created by Tennessee Code Annotated § 7-51-201 by presenting affirmative evidence that there was not a substantial causal connection between the employee's work and the occurrence upon which this claim is based. *Stone v. City of McMinnville*, 896 S.W.2d 548, 550 (Tenn. 1995). On appeal, Mr. Lane does not contest that finding. Therefore, the burden of proof was upon Mr. Lane to prove causation.

A heart attack may be compensable if it is caused by either the physical exertion of working or by mental or emotional stimulation. *See Clark v. Nashville Mach. Elevator Co., Inc.*, 129 S.W.3d 42, 47 (Tenn. 2004). In this case, Mr. Lane's physical activity consisted primarily of driving, walking, talking and writing. There is no proof in the record that those activities contributed in any way to his heart attack. Rather, Mr. Lane contends that the general stress associated with his job precipitated the event. Specifically, he pointed to the stress and lack of sleep from working twenty-one hours of overtime in the week prior to the event, and/or the emotional stress caused by the three cases on which he worked in the approximately thirty-six hours prior to going to the emergency room. He could not recall that he had physically exerted himself in any way while on the job during the week just before his heart attack. Dr. Case's testimony, though subject to numerous caveats and

conditions, identified each of those stressors as possible contributors to the heart attack. Dr. Roseman flatly denied that there was a causal relationship between the stress and the heart attack. From our review, it is clear that there was sufficient evidence for the trial court to rule either way regarding the relationship between Mr. Lane's job stress and his heart attack. Thus, we find that the evidence does not preponderate against the trial court's finding on that issue.

However, finding that a causal relationship existed between job stress and a heart attack does not end the inquiry. It must still be determined whether the events which precipitated the heart attack are sufficient to constitute an accidental injury as contemplated by the principles of the workers compensation law. In *Bacon v. Sevier County*, 808 S.W.2d 46, 52 (Tenn. 1991), the Supreme Court described the standard applicable to this type of claim as follows:

[I]n order to recover when there is no physical exertion, but there is emotional stress, worry, shock, or tension, the heart attack must be immediately precipitated by a specific acute or sudden stressful event, rather than generalized employment conditions. . . . [T]here must be a specific, climatic event or series of incidents of an unusual or abnormal nature if the claimant is to be permitted a recovery. A premium should be placed upon specificity and clarity in identifying that which constitutes the "accident" and upon demonstrating that such accident is directly attributable to the employment.

In its findings, the trial court acknowledged *Bacon* but stated that the case law had "evolved" since that case was decided, relaxing the standard. We disagree.

Bacon was cited favorably, on this and other points, in *Houser v. Bi-Lo Inc.*, 36 S.W.3d 68, 72 (Tenn. 2001). In that decision, the Supreme Court considered a claim involving a stroke, which was alleged to have been caused by a stressful work event. The employee was the manager of a retail store. Immediately before his stroke occurred, he had become visibly upset as a result of problems created by an incorrect inventory order. The proof showed that such incidents occurred from time to time, although not on a regular basis. The Court affirmed a denial of benefits, stating:

[T]he rule is settled in this jurisdiction that physical or mental injuries caused by worry, anxiety, or emotional stress of a general nature or ordinary stress associated with the worker's occupation are not compensable. The injury must have resulted from an incident involving mental stress of an unusual or abnormal nature, rather than the day-to-day mental stresses and tensions to which workers in that field are occasionally subjected.

Bacon was subsequently cited by the Supreme Court in 2004 in *Clark*. 129 S.W.3d at 47. Most recently, a Workers' Compensation Appeals Panel has applied *Bacon* in *Bledsoe v. City of Dickson-Dept. of Police*, No. M2005-00919-WC-R3-CV, 2006 WL 1815808, at *6 (Tenn. Workers' Comp. Panel May 25, 2006). A sudden, acute event or a series of unusual or abnormal events, as required by *Bacon*, is still required.

In this case, Mr. Lane acknowledged, during cross-examination, that none of the cases which he investigated on June 5 and 6, 2004 presented particularly dangerous or threatening circumstances. He had investigated similar cases on many previous occasions, though perhaps not all within a thirty-six hour period. The stressful events relied upon here are similar to those proffered by employees in *Bacon*, 808 S.W.3d at 47, and *Sexton v. Scott County*, 785 S.W.2d 814, 814-15 (Tenn. 1990), i.e., long hours and general stress. In both of those decisions, the Supreme Court found that such allegations were not sufficiently sudden to satisfy the standards described in *Bacon*. In this case, Mr. Lane contends that the combination of three difficult cases in a short period distinguishes his situation from *Bacon* and *Sexton*. However, by his own description, none of the investigations involved confrontations or other threatening circumstances, and all three were similar to investigations he had conducted on many previous occasions.

After reviewing the entire record, we conclude that the events described by Mr. Lane, were not sufficiently acute, sudden, unusual or abnormal when compared to the normal stresses of his job as a police detective to render the heart attack an accidental injury under our workers' compensation law.

V. CONCLUSION

The judgment of the trial court is reversed. The employee's complaint is dismissed. Costs are taxed to James R. Lane and his surety, for which execution may issue if necessary.

JERRY SCOTT, SENIOR JUDGE

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ORDER

This case is before the Court upon the motion for review filed by James R. Lane pursuant to Tenn. Code Ann. § 50-6-225(e)(5)(B), the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law.

It appears to the Court that the motion for review is not well-taken and is therefore denied. The Panel's findings of fact and conclusions of law, which are incorporated by reference, are adopted and affirmed. The decision of the Panel is made the judgment of the Court.

Costs are assessed to James R. Lane, for which execution may issue if necessary.

PER CURIAM

Clark, J. - Not Participating

