APPEAL NO. 990315

This appeal arises 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 January 19, 1999. The issues at the CCH were whether the appellant, who is the claimant, sustained a compensable injury to his back and neck on _____, when he suffered an undisputed injury to his hand.

The hearing officer found that claimant did not sustain a compensable injury to his neck and back.

The claimant has appealed, arguing the evidence he believes is in total opposition to the hearing officer's decision. The respondent (carrier) responds that the injury was limited to the right hand, and there is a dearth of evidence showing that claimant complained of his neck and back within a time proximate to the accident.

DECISION

Affirmed.

The claimant was employed by (employer). While working on _____, at a client's location, claimant said, he was on a seven-foot ladder, which tipped.

Claimant said he grabbed out with his right hand to avoid falling but, nevertheless, fell on his right arm and side. When he returned to the employer's headquarters, there was no one in attendance to take a report of injury. Claimant therefore reported his injury at 7:00 a.m. the next morning when he reported for work. Claimant was sent to (medical clinic) by the employer. The history of accident given on the medical clinic's records is that claimant fell off a ladder and jammed his right hand. He was treated for a fractured bone in his hand and taken off work. The hand specialist for the clinic, Dr. H, stated that it was his understanding that as the ladder began to fall, the claimant jammed his hand as he tried to stop himself.

Claimant insisted that he reported neck and back pain to all medical clinic doctors and was essentially told that treatment for this would be deferred. He also asserted that when he made a formal report of his injury to Ms. L, with translation through Ms. B, he reported injuries to his neck and back. Both women testified to the contrary and, in fact, noted that claimant repeatedly, and in response to questions about what he injured, identified only his right hand.

Claimant said he changed treating doctors to Dr. B, whom he first saw on June 1, 1998. Dr. B began treating the claimant for his low back and pain around his mid-back, along with claimant's hand. Dr. B diagnosed cervical, thoracic, and lumbar sprain. The medical records indicated that claimant saw Dr. H again in mid-June and was prescribed additional physical therapy.

A doctor for the carrier, Dr. BR, certified the claimant had reached maximum medical improvement as of September 17, 1998, with a two percent impairment rating, and that there was no reason he could not return to work at a medium-duty level. Dr. BR evaluated claimant's hand injury only.

We would note at the outset that while chronology alone does not establish a causal connection between an accident and a later-diagnosed injury, Texas Workers' Compensation Commission Appeal No. 94231, decided April 8, 1994, neither does a delayed manifestation or the failure to immediately mention injury to a health care provider necessarily rule out a connection. *See* Texas Employers' Insurance Association v. Stephenson, 496 S.W.2d 184 (Tex. Civ. App.-Amarillo 1973, no writ). However, the significance of early identification to health care providers or employers of injured regions of the body is a matter of fact for the hearing officer to weigh. We note, in this case, that the claimant did not contend his manifestation was delayed; he declared that he felt neck and back pain from the beginning. The hearing officer evidently believed the testimony of Ms. L and Ms. B that it was not reported, and this was perhaps harder for the hearing officer to reconcile with the assertion of injury at the same time the hand was being repeatedly declared as injured. A trier of fact is not required to accept a claimant's testimony at face value, even if not specifically contradicted by other evidence. Bullard v. Universal Underwriters Insurance Company, 609 S.W.2d 621 (Tex. Civ. App.-Amarillo 1980, no writ). The hearing officer is the sole judge of the relevance, the materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We do not agree that this was the case here, and we affirm the decision and order.

_____
Susan M. Kelley
Appeals Judge

CONCUR:

_____
Stark O. Sanders, Jr.
Chief Appeals Judge

_____
Elaine M. Chaney
Appeals Judge