APPEAL NO. 990443

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 February 9, 1999. The issues at the CCH were whether the appellant, who is the claimant, sustained a compensable injury on _____. The hearing officer determined that the claimant did not sustain a compensable injury, and that the evidence was insufficient to establish a causal connection between claimant's hernia and her activities at work.

The claimant has appealed the decision and argues that it is against the great weight of the evidence. The respondent (carrier) argues that it is not, and asks that the decision be affirmed.

DECISION

Affirmed.

The claimant worked for (employer) for 20 years prior to her claimed injury. She stated that on _____, while employed as a seamstress, she was present when a coworker dropped a bundle of blue jean pants. She helped the coworker pick up the bundle, which contained 60 pairs of pants, from the ground. Claimant felt no pull or pain as she did this or afterwards. She estimated she picked up about 10-11 pairs of pants. The claimant said she had done nothing other than her work on _____, which might have caused her hernia.

The next morning, as she was bathing, she noticed a "lump" in her abdomen. She had never noticed this before. The claimant said she reported this to her employer on that same day. On October 2, 1998, she was examined by Dr. T, who told her she had an inguinal hernia. Dr. T's notes refer to the fact that claimant picked up a bundle of pants and the next day felt the lump. Dr. T referred her to a surgeon, but she had not yet had surgery at the time of the CCH. Claimant was still working. She felt no pain, but discomfort, especially when she coughed or strained her stomach. She agreed that no doctor told her that she developed her hernia because of picking up the pants.

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 fact that a condition is discovered

after activities are performed at work may not, in every case, establish causation. In this case, the hearing officer could reasonably infer that the only relationship to the picking up of the spilled bundle of pants and the hernia was the timing of the discovery. We cannot agree that this determination is against the great weight and preponderance of the evidence, and therefore affirm the decision and order.

_____
Susan M. Kelley
Appeals Judge

CONCUR:

_____
Robert W. Potts
Appeals Judge

_____
Alan C. Ernst
Appeals Judge