APPEAL NO. 001754

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 June 12, 2000. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; and that the claimant had disability from January 24, 2000, and continuing through the date of the CCH. The appellant (carrier) appealed. The appeals file does not contain a response from the claimant.

DECISION

We affirm.

The claimant contended he injured his neck and back when he was hit by a door that slid from the top of a stack of doors. This happened on _____, before the Thanksgiving holiday. He said both that he reported the incident to his boss, Mr. W, and also that he did not report a back injury because he did not realize he had such injury.

The conflicting evidence in this case consists of: a corroborative statement from a coworker as to the incident; evidence that he reported this to his family doctor on December 6, 1999; Mr. W's assertion that the claimant twice told him in December that his problems were not work-related injuries; the claimant's agreement that he moved his residence starting the first week in December, although he denied any lifting; statements that he told some coworkers that he hurt his back moving; Mr. W's statement that the claimant first reported a work related injury on January 10, 2000, after telling Mr. W that his share of the cost of an MRI through private insurance was one he could not afford; evidence that the claimant was taken off work or put on light duty due to back and neck strains.

A claimant's testimony alone, if believed, may establish that an injury has occurred, and disability has resulted from it. Houston Independent School District v. Harrison, 744 S.W.2d 298, 299 (Tex. App.- Houston [1st Dist.] 1987, no writ). Generally, lay testimony establishing a sequence of events which provides a strong, logically traceable connection between the event and the condition is sufficient proof of causation. Morgan v. Compugraphic Corp. , 675 S.W.2d 729, 733 (Tex. 1984).

The hearing officer is the sole judge of the relevance, 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 record here presented the classically conflicting body of evidence which it is the hearing officer's responsibility to reconcile and resolve. In the course of so reconciling the evidence, the trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d

153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). An appeals level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.- El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.- Beaumont 1993, 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 are not prepared in this case to say that the great weight is against the hearing officer's decision, and accordingly affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge