

## APPEAL NO. 002734

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 November 7, 2000. The hearing officer determined that various physical conditions that the appellant (claimant) sought to have related to his compensable injury of \_\_\_\_\_, were not proven to have occurred due to his injury. The hearing officer also determined that the claimant's depression and schizoaffective disorder preceded the injury and that they were not aggravated by the compensable injury.

The claimant has appealed, arguing that he proved the causal relationship. The respondent (self-insured) responds that the decision is fully supported by the evidence recited in the response.

### DECISION

We affirm the hearing officer's decision.

The claimant sustained a contusion to his chest while moving a table at the school where he worked. Although there was some suspicion that he might have had a fractured rib, the evidence shows that this was later questioned. The claimant continued to complain of a host of problems with his right upper extremity, back, thoracic spine, and mental status. He agreed he had been evaluated and treated for depression in \_\_\_\_\_, after a car accident, but maintained that he completely recovered. Although some of the claimant's medical records refer to the fact that he had not worked since the injury, he testified at the CCH that he undertook two different jobs after he resigned from the employer school district.

There is conflicting medical evidence. There are at least five different doctors' reports, including those of doctors who evaluated the claimant for impairment, that opine that claimant's numerous complaints are nonanatomical, inconsistent with observed motions when testing was not being done, and possibly fictitious. Against this, essentially, are the reports of Dr. B, who stated that the claimant had reflex sympathetic dystrophy and fibromyalgia, and Dr. M, who treated the claimant for depression and psychological problems. None of the treatment notes relate these problems specifically to the injury; but Dr. M wrote on August 8, 2000, that the claimant's depression was caused by his injury and subsequent inability to work. The record includes an award by the Social Security Administration of benefits relating to the claimant's depression, but that same award report (generated sometime after a May 1998 hearing) noted that the claimant did not have "exertional" or functional limitations.

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). In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The record supports the hearing officer's resolution of conflicting evidence, and we affirm his decision and order.

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge