APPEAL NO. 010007

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 6, 2000. The hearing officer held that the appellant (claimant) did not sustain a work-related back injury and therefore did not have disability.

The claimant appeals and argues that he could not have injured himself anywhere else, as he was in his hotel room when not on the drilling rig. The respondent (carrier) responds that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision.

Existence of an Injury. The hearing officer did not err in finding that the claimant did not prove that he sustained his injury in the course and scope of employment. The claimant testified as to a logical sequence of events, pulling a blow-out protector with a chain, that caused him to pull his back. A witness for the carrier also agreed that the crew would have to pull on chains to maneuver the blow-out protector over the hole although he disputed it would have been as strenuous as portrayed by the claimant. However, various medical records at the time, as well as witness statements that are transcribed, indicate that: (1) the claimant had two years of chronic back pain; (2) he first noticed back pain in the hotel room but could recall no specific event causing such injury; (3) he speculated that his injury could have occurred while lifting either a fan or pipe at work; and (4) he did not mention the injury to his coworkers, who said that the blow-out protector was pulled primarily with a chain and truck and all workers did was prevent the chain from twisting.

Existence of disability. The hearing officer did not err in finding that there was no disability. The claimant had not worked since September 6, 2000. However, disability must be related to a "compensable injury" in order for income benefits to be due. *See* Section 401.011(16).

The burden is on the claimant to prove that an injury occurred within the course and scope of employment. Service Lloyds Insurance Co. v. Martin, 855 S.W.2d 816 (Tex. App.-Dallas 1993, no writ); Texas Employers Insurance Association v. Page, 553 S.W.2d 98 (Tex. 1977). 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). 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). In this case, however, the hearing officer could appropriately consider medical reports from the time of the alleged injury as casting some doubt on whether the blow-out protector adjustment was an injurious episode.

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). While different inferences could have been drawn, especially in light of the lack of other likely causes for an injury, we cannot agree that the evidence is such that 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 affirm the hearing officer's decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Thomas A. Knapp
Appeals Judge