BRB No. 96-0196

WESLEY C. BROWN	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
UNION EQUITY COOPERATIVE EXCHANGE	)	DATE ISSUED:
	)	
and	)	
	)	
FARMLAND MUTUAL INSURANCE COMPANY	)	
	)	
Employer/Carrier-Respondents	)	DECISION and ORDER

Appeal of the Decision and Order - Denying Benefits of George P. Morin, Administrative Law Judge, United States Department of Labor.

Lewis S. Fleishman (Richard Schechter, P.C.), Houston, Texas, for claimant.

Michael D. Murphy (Eastham, Watson, Dale & Forney, L.L.P.), Houston, Texas, for employer/carrier.

Before: HALL, Chief Administrative Appeals Judge, SMITH and BROWN, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order - Denying Benefits (95-LHC-0803, 95-LHC-0804) of Administrative Law Judge George P. Morin rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the findings of fact and conclusions of law of the administrative law judge if they are rational, supported by substantial evidence, and in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

On April 24, 1989, claimant sustained an injury to his knee during the course of his employment with employer. Employer voluntarily paid claimant temporary total disability and permanent partial disability benefits as a result of this injury. Claimant subsequently suffered a

psychotic episode while undergoing rehabilitation for his knee.[1] Claimant sought benefits under the Act alleging that his knee injury aggravated and exacerbated his pre-existing mental condition, thereby causing a permanent mental disability.

In his Decision and Order, the administrative law judge initially found that claimant was entitled to the Section 20(a), 33 U.S.C. §920(a), presumption, which employer rebutted by the May 10, 1995, medical report of Dr. Glass. The administrative law judge next found that claimant failed to establish work-related causation of his mental impairment based upon his decision to credit the report of Dr. Glass over the reports and testimony of Dr. Peccora, who opined that claimant's knee injury probably contributed to his psychiatric problems. Accordingly, claimant's claim for benefits was denied.

On appeal, claimant contends that the administrative law judge erred in determining that employer produced specific and comprehensive evidence sufficient to rebut the Section 20(a) presumption; alternatively, claimant asserts that the administrative law judge erred in evaluating the evidence as a whole when discussing the issue of causation. Employer responds, urging affirmance.

Upon invocation of the Section 20(a) presumption, the burden shifts to employer to present specific and comprehensive evidence sufficient to sever the causal connection between the injury and the employment, and therefore, to rebut the presumption with substantial evidence that claimant's condition was not caused or aggravated by his employment. *Swinton v. J. Frank Kelly, Inc.*, 554 F.2d 1075, 4 BRBS 466 (D.C. Cir.), *cert. denied*, 429 U.S. 820 (1976). The unequivocal testimony of a physician that no relationship exists between an injury and a claimant's employment is sufficient to rebut the presumption. *See Kier v. Bethlehem Steel Corp.*, 16 BRBS 128 (1984). If the administrative law judge finds that the Section 20(a) presumption is rebutted, the administrative law judge must weigh all of the evidence contained in the record and resolve the causation issue based on the record as a whole. *See Devine v. Atlantic Container Lines, G.I.E.*, 23 BRBS 279 (1990).

[1]Previously, in 1988, claimant had been hospitalized after suffering a similar psychotic episode.

Claimant initially challenges the administrative law judge's finding that employer rebutted the Section 20(a) presumption. In finding rebuttal, the administrative law judge credited the May 10, 1995 medical opinion of Dr. Glass, who unequivocally opined that claimant's present psychosis is unrelated to his knee injury.[2] As Dr. Glass's opinion constitutes substantial evidence sufficient to rebut the presumption, we affirm the administrative law judge's finding that the Section 20(a) presumption is rebutted. *See generally Phillips v. Newport News Shipbuilding & Dry Dock Co.*, 22 BRBS 94 (1988).

Claimant next alleges that the administrative law judge erred in finding that causation was not established based on the record as a whole. We disagree. After setting forth the medical evidence of record, the administrative law judge credited the report of Dr. Glass, who explained that claimant's 1989 psychiatric episode "occurred as a continuation of the earlier [1988] one, probably in large part because it seemed that [claimant] had stopped taking his psychotropic medication before he again became psychotic," *see* Employer's Exhibit 15, over the reports of Dr. Peccora, who testified that claimant's knee injury "probably" contributed to his pre-existing psychiatric problems, *see* Claimant's Exhibit 5 at 56, in concluding that claimant's present psychosis is not related to his work injury. *See Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 8 BRBS 744 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979). It is well-established that an administrative law judge is entitled to weigh the medical evidence and draw his own inferences therefrom, and he is not bound to accept the opinion or theory of any particular medical examiner. *See Todd Shipyards Corp. v. Donovan*, 300 F.2d 741 (5th Cir. 1962). In the instant case, the administrative law judge's credibility determinations regarding the medical opinions of record are reasonable. We therefore find no error in the administrative law judge's ultimate finding that claimant failed to prove work-related causation based on the record as a whole. Accordingly, we affirm the administrative law judge's determination that claimant failed to establish that his current mental condition is related to his April 24, 1989, work injury.

Accordingly, the administrative law judge's Decision and Order - Denying Benefits is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

[2]The May 10, 1995 medical report of Dr. Glass reads, in pertinent part, "In reviewing the case and records of [claimant] there is a reference point by one attorney that [claimant] was in fact a somewhat stressed individual who was pushed over the edge by his knee injury and unemployability. The implication is that his persona and personality involved his being a blue collar laborer, and being unable to work, and his situation deteriorated and he became psychotic. In my opinion this clearly is not the case. Many individuals have severe knee injuries and other types of disabilities and do not become psychotic as [claimant] did. I think therefore that the knee injury is unfortunate, but unrelated to the psychosis occurring in this individual." Employer's Exhibit 15.

ROY P. SMITH
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge