BRB No. 97-0932

JAMIE CRAWFORD	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
VIOLET DOCK PORT, INCORPORATED	)	DATE ISSUED:
	)	
and	)	
	)	
LOUISIANA INSURANCE GUARANTY ASSOCIATION	)	
	)	
Employer/Carrier-Petitioners	)	DECISION and ORDER

Appeal of the Decision and Order of C. Richard Avery, Administrative Law Judge, United States Department of Labor.

Robert McComiskey, Christopher Gobert (Osborne, McComiskey, Gobert & Reasonover), Metairie, Louisiana, for claimant.

Collins C. Rossi (Bernard, Cassisa, Elliott & Davis P.L.C.), Metairie, Louisiana, for employer/carrier.

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

PER CURIAM:

Employer appeals the Decision and Order (96-LHC-451) of Administrative Law Judge C. Richard Avery awarding benefits 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 September 17, 1986, claimant sustained injuries to his head and chest when he was struck and rendered unconscious by a broken guide cable. EX 1. Claimant was transported to St. Tammy Hospital, where emergency room records report confusion, a concussion, scalp laceration and a chest injury. Claimant, who continues to complain of numerous emotional difficulties, headaches and trigeminal neuralgia, has not returned to work since the day of this incident. Employer voluntarily paid benefits for temporary total disability, 33 U.S.C. §908(b), until it controverted the claim on June 21, 1995, based on medical opinions which stated that claimant's neurological, physical, and psychological symptomatology are not related to his work injury.

In his Decision and Order, the administrative law judge found that claimant was entitled to invocation of the Section 20(a), 33 U.S.C. §920(a), presumption, that employer had established rebuttal of that presumption, and that, based on the record as a whole, claimant established a casual relationship between his employment with employer and his symptomatology. Further, the administrative law judge determined that claimant was unable to return to his usual job and that employer failed to establish the availability of suitable alternate employment. Accordingly, he awarded claimant temporary total disability compensation from September 17, 1986 to April 25, 1996, and continuing permanent total disability compensation thereafter. 33 U.S.C. §§908(a), (b).

On appeal, employer asserts that the administrative law judge erred in finding a causal relationship between claimant's work and his current symptomatology; specifically, employer contends that the opinion of Dr. Blotner does not constitute substantial evidence to support the administrative law judge's causation finding since, it avers, that opinion is not well-reasoned or accurately documented. Claimant responds, urging affirmance of the administrative law judge's decision.

In the instant case, the administrative law judge properly invoked the Section 20(a) presumption as he found that claimant suffered a harm and that working conditions existed which could have caused that harm. *See generally Merrill v. Todd Pacific Shipyards Corp.,* 25 BRBS 140 (1991). Once the Section 20(a) presumption is invoked, the burden shifts to employer to rebut the presumption with substantial evidence that claimant's condition was not caused, aggravated, or rendered symptomatic by his employment. *Sam v. Loffland Brothers Co.,* 19 BRBS 228 (1987). If the administrative law judge finds that the Section 20(a) presumption is rebutted, he must weigh all of the evidence 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).

After determining that employer had rebutted the presumption, the administrative law judge considered all of the medical evidence of record and credited the opinion of Dr. Blotner, claimant's treating psychiatrist, who unequivocally opined that claimant's debilitating symptomatology was caused by his September 17, 1986, work injury, in concluding that causation had been established. *See Cordero v. Triple A Machine Shop,* 580 F.2d 1331, 8 BRBS 744 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979). In declining to credit the contrary opinions of Drs. Adams, Culver and Bianchini, the administrative law

judge reasoned that while these doctors had evaluated claimant for a brief time in the last few years, Dr. Blotner, as claimant's treating psychiatrist, has treated claimant since December 9, 1989. It is well-established that an administrative law judge is entitled to weigh the medical evidence and draw his own inferences therefrom and 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, employer's contention that Dr. Blotner's causation opinion is neither well-reasoned nor accurately documented lacks merit since the record indicates that Dr. Blotner has examined claimant approximately thirty-four times. *See* CX 9. Moreover, Dr. Blotner interpretation of claimant's initial trauma as a severe blow to the head is supported by the emergency room report which notes that claimant was rendered unconscious by the work injury for an unknown period of time and that, upon regaining consciousness, he had difficulty remembering where he worked, what day it was and for whom he worked. EX 4 at 8. Dr. Blotner also rationally distinguished his opinion of work-related causation from the contrary opinions of Drs. Adams, Culver and Bianchini. Tr. at 65, 67-73. The administrative law judge properly found his opinion supported by the opinions of Drs. Alcazaren and Muir. Based upon the foregoing, the administrative law judge's decision to credit the opinion of Dr. Blotner is rational. As the administrative law judge's determination that claimant's present symptomatology is related to his employment with employer is supported by substantial evidence , it is affirmed. *See generally Sinclair v. United Food & Commercial Workers,* 23 BRBS 148 (1989).

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

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge