APPEAL NO. 990701

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). On March 4, 1999, a contested case hearing was held. The only issue before the hearing officer was:

> Is [Dr. KF] or [Dr. GF] the designated doctor for the injury sustained on _____?

The hearing officer determined that Dr. KF was the designated doctor for the _____, injury and made a finding of fact that Dr. GF was the designated doctor to determine an impairment rating (IR) for a _____, injury.

Appellant, the self-insured school district, referred to as carrier, appealed, contending that the hearing officer failed "to mention or explain away Carrier's position and evidence." Carrier then recites the evidence from its perspective and points out several errors that were made in the administrative handling of the case. Carrier essentially argues that there was only one injury and that Dr. GF was the first appointed designated doctor for that injury and that no other subsequent designated doctor should have been appointed. Carrier cites Appeals Panel decisions where one designated doctor is replaced by another designated doctor. Carrier requests that we reverse the hearing officer's decision and render a new decision that Dr. GF is the designated doctor for the _____, injury. Respondent, claimant, responds, urging affirmance.

DECISION

Affirmed.

Claimant was employed by the school district as a bus driver. The parties stipulated that claimant sustained a compensable (low back injury) on _____. Claimant testified that on that date she slipped and fell at work, injuring her low back. Claimant saw Dr. N the next day, _____, and eventually Dr. N became the treating doctor (at least for the _____ injury). Dr. N, throughout his reports, consistently lists a _____, date of injury. Claimant testified that she again slipped and fell on _____, and again injured her low back. Claimant said that she reported both injuries to her supervisor as separate injuries. The medical reports indicate that claimant had conservative treatment for a period of time and eventually had a lumbar laminectomy at L3-4 and L5-S1 in April 1997. Claimant was confused as to which doctor she saw when, and testified that she did what the Texas Workers' Compensation Commission (Commission) told her to do.

In evidence is an EES-14 letter dated August 5, 1997, from the Commission, appointing Dr. GF as a designated doctor to assess maximum medical improvement (MMI) and IR for a "September 23, 1995," injury, listing Dr. N as the treating doctor. It is undisputed that there was no September 23, 1995, injury. Dr. GF, in his report, lists a

_____, date of injury and finds that claimant was not at MMI in a report dated August 26, 1997. Consequently, no IR was assessed.

Also in evidence is another EES-14 letter dated February 2, 1998, from the Commission, appointing Dr. KF as the designated doctor to assess an IR only for the _____, injury, listing Dr. N as the treating doctor. In his report dated February 12, 1998, Dr. KF refers to a _____, injury and assesses a 17% IR based on loss of range of motion. In a follow-up evaluation dated April 9, 1998, Dr. KF refers to the _____, injury and a 22% IR given by Dr. N on January 7, 1998.

In yet a third EES-14 letter, dated April 8, 1998, the Commission appoints Dr. GF as the designated doctor to assess an IR only for the _____, injury, listing Dr. KF as the treating doctor. Dr. GF in a Report of Medical Evaluation (TWCC-69) and narrative dated April 29 and April 23, 1998, respectively, certifies claimant at MMI on November 18, 1997, with an 11% IR. Dr. GF references the _____, injury and his evaluation of August 21, 1997.

The hearing officer, in her decision, comments on a slip-and-fall injury on _____, and that claimant "suffered a subsequent back injury in another slip and fall accident on _____." The hearing officer does not mention the August 1997 EES-14 letter, but does make specific findings that pursuant to the February 2, 1998, EES-14 letter, Dr. KF was appointed the designated doctor for the _____, injury and that pursuant to the April 8, 1998, EES-14 letter, Dr. GF was appointed the designated doctor for the November 13, 1995, injury. Carrier argues that Dr. GF was the only properly designated doctor appointed in August 1997. Carrier dismisses the reference to a September 23, 1995, date of injury as "a typo" and argues that Dr. N clearly meant the _____, injury when he listed the date of injury, _____. Carrier argues that there is no documentary evidence that Dr. N ever treated claimant "for anything other than the first injury." In fact, carrier argues that there is only one injury, apparently the _____, injury, ignoring the second, _____, injury, and that Dr. GF was the properly appointed designated doctor in August 1997 to rate that injury. Carrier cites cases that pertain to the appointment of a new or replacement designated doctor. We find those cases inapplicable to this case, where successive doctors were apparently appointed in error.

While a good number of things could have been done better, the hearing officer made implied findings that claimant sustained two separate and distinct injuries, reporting each as a separate injury. Those implied findings are supported by the evidence. Dr. N was apparently the treating doctor for both injuries and merely used the date he first saw claimant as the date of injury. There is no explanation regarding the circumstances of Dr. GF's appointment as the designated doctor for a _____, injury, although, apparently, Dr. GF understood it to be for the _____, injury. In that the hearing officer determined that there were two separate and distinct injuries, on two different dates, we find no error in the hearing officer's determinations that a different designated doctor was appointed for each of the separate injuries. Ultimately, we are unwilling to resolve this case as a matter of law and hold, instead, that it involves factual determinations of whether there was one injury or two, and the circumstances surrounding the appointment of the designated doctors.

Although another fact finder may have drawn different inferences from the evidence, which could have supported a different result, that does not provide a basis for us to reverse the hearing officer's decision on appeal. Salazar, *et al.* v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

Upon review of the record submitted, we find no reversible error and we will not disturb the hearing officer's determinations unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not so find and, consequently, the decision and order of the hearing officer are affirmed.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Gary L. Kilgore
Appeals Judge

_____
Tommy W. Lueders
Appeals Judge