

APPEAL NO. 991631

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 July 22, 1999. The parties resolved the disputed issues by agreement. The hearing officer wrote a decision incorporating the terms of that agreement. Specifically, she determined that the appellant (carrier) timely contested compensability of the respondent's (claimant) alleged low back, thoracic, right shoulder, and neck injuries; that the claimant compensably injured her right knee and low back on _____, but did not injure her right shoulder, neck, or thoracic spine; and that the claimant had disability as a result of her _____, compensable injury from April 26, 1999, through the date of the hearing. In its appeal, the carrier notes that the hearing officer also made a finding that "[n]o doctor has certified that the Claimant has attained maximum medical improvement [MMI]." The carrier argues that the hearing officer's MMI finding is "superfluous", noting that no MMI issue was before the hearing officer and that no evidence was presented on the issue. Accordingly, the carrier asks that we strike Finding of Fact No. 5. The appeals file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed, as modified.

As noted above, there was no MMI issue before the hearing officer and no evidence was presented concerning MMI; thus, the hearing officer's finding that no doctor has certified that the claimant has reached MMI finds no support in the record. The carrier's point that the finding is superfluous is well taken. As such, we strike Finding of Fact No. 5. As so modified, the hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Thomas A. Knapp
Appeals Judge