

## APPEAL NO. 001038

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 April 20, 2000. The hearing officer determined that the appellant's (claimant) impairment rating (IR) is seven percent, as certified by Dr. K, a designated doctor selected by the Texas Workers' Compensation Commission (Commission). The claimant appealed, expressing his disagreement with this determination and urging that the 16% IR assigned by Dr. P, his treating doctor, be adopted. The respondent (carrier) replied that the decision is correct, supported by sufficient evidence, and should be affirmed. The parties stipulated that the claimant reached maximum medical improvement on January 21, 1999.

### DECISION

Affirmed.

The hearing officer found that the great weight of the other medical evidence was not contrary to Dr. K's report. See Section 408.125(c). Dr. K's seven percent IR consisted of two percent for cervical loss of range of motion (ROM) and five percent for a specific disorder of the lumbar spine. He invalidated lumbar ROM measurements and found his examination of the cervical spine "essentially unremarkable," as confirmed by an MRI, and not warranting a specific disorder rating. He also did not consider it appropriate to assign an IR to the thoracic spine because the claimant had no complaints for this area. Dr. P's 16% IR consisted of 7% for abnormal cervical ROM and 10% for abnormal lumbar ROM. He assigned no specific disorder IR.

In his appeal, the claimant complains that Dr. K's IR is contrary to the great weight of the other medical evidence because no IR was given for the thoracic spine and no specific disorder IR was given for the cervical spine. It urges that Dr. P's IR be adopted by the Commission. We note in this regard that Dr. P assigned no specific disorder IR, nor did he assign any disorder for the thoracic spine. For this reason, we cannot conclude that Dr. P's IR provides any support for the claimant's contention that he is entitled to a thoracic and cervical specific disorder IR. Whether Dr. K's IR was contrary to the great weight of the other medical evidence was a question of fact for the hearing officer to decide and this decision is, in turn, subject to reversal on appeal only if it is so against the great weight and preponderance of the evidence as to be clearly erroneous and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. Applying this standard of review to the record of this case, we find the evidence sufficient to support the hearing officer's determination that the claimant's correct IR was seven percent as certified by Dr. K.

For the foregoing reasons, we affirm the decision and order of the hearing officer.

---

Alan C. Ernst  
Appeals Judge

CONCUR:

---

Thomas A. Knapp  
Appeals Judge

---

Philip F. O'Neill  
Appeals Judge