

APPEAL NO. 002683

Following a contested case hearing held on October 26, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issue by determining that the respondent's (claimant) impairment rating (IR) was 35%. The appellant (carrier) appealed, asserting that the hearing officer erred in finding that the report of the Texas Workers' Compensation Commission (Commission)-selected designated doctor was not entitled to presumptive weight. The carrier requests that we reverse the hearing officer's decision and render a new decision that the claimant's IR is 18% as certified by the designated doctor. The claimant responds that the hearing officer was correct in rejecting the designated doctor's report because the designated doctor had not rated the entire injury and requests that we affirm the hearing officer's decision.

DECISION

Affirmed.

The claimant sustained a compensable injury as he was discarding a spool of scrap wire into a dumpster. As the wire began to unroll from the spool, it wrapped around the claimant's right wrist, cutting the extensor tendons of the right hand. The claimant underwent surgery to repair the extensor tendons and the radial artery.

On November 4, 1999, the claimant was examined by Dr. B; was determined to have reached maximum medical improvement (MMI) on November 4, 1999; and was assessed a 35% IR. The 35% IR consisted of impairment due to loss of range of motion (ROM) of the thumb and fingers, loss of ROM of the wrist, loss of range of supination of the right elbow, and impairment due to peripheral nerve damage. Dr. B awarded a total of 57% of the right hand for the loss of ROM of the fingers, 9% for loss of ROM of the wrist, 1% for loss of ROM of the elbow, and 6% for nervous system disorders. The 57% impairment to the hand translated to a 51% impairment to the upper extremity. The total impairment to the upper extremity was converted to arrive at the 35% whole person IR.

On January 4, 2000, the claimant was examined by Dr. C, the Commission-selected designated doctor. Dr. C determined that the claimant had an 18% whole body impairment. In arriving at the 18% IR, Dr. C awarded 1% for upper peripheral nervous system disorders, 3% for upper vascular disorders, and 15% for impairment to the right wrist. No impairment was awarded for loss of ROM for the fingers of the right hand, nor was there any indication in the narrative report accompanying Dr. C's IR that the fingers of the right hand were considered in assessing the total impairment resulting from the compensable injury.

On March 3, 2000, Dr. RB, the claimant's surgeon, executed a letter expressing his disagreement with Dr. C's determination of the claimant's IR. Dr. RB noted that the claimant's injury not only affected the ROM of the wrist, but also the fingers. Dr. RB

expressly stated that Dr. C's assessment did not take into account the loss of ROM in the fingers. A copy of Dr. RB's letter was sent to Dr. C for comment. Dr. C replied as follows:

Regarding your letter of March 29, 2000. I read with interest your letter and the March 3, 2000, letter of [Dr. RB]. It is my opinion that my opinion remains unchanged.

Chapter 3.1h of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides), entitled "Combining Regional Impairments to Obtain Impairment of the Whole Person," states that the examiner should determine the impairment of each region (hand, wrist, elbow, and shoulder joints) as provided in the AMA Guides, then use the Combined Values Chart to combine the upper extremity impairments, then convert the upper extremity impairment into a whole person rating. Dr. B did so, but Dr. C neglected or refused to rate the loss of ROM to the fingers caused by the repair of the extensor tendons.

Section 408.122(c) and Section 408.125(e) provide in part that the report of the designated doctor has presumptive weight, and the Commission shall base its determination of MMI and IR on the report unless the great weight of the other medical evidence is to the contrary. Since Dr. C failed to rate the entire injury, the hearing officer did not err in finding that the great weight of the other medical evidence outweighed Dr. C's report and that Dr. C's report was not entitled to presumptive weight. The hearing officer then selected the only other IR in evidence, Dr. B's. Section 408.125(e) provides that where the great weight of the other medical evidence is contrary to the designated doctor's IR, "the commission shall adopt the [IR] of one of the other doctors." Under the circumstances of this particular case, we find that the hearing officer did not err in doing so.

The decision and order of the hearing officer are affirmed.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge