APPEAL NO. 011773
FILED SEPTEMBER 13, 2001

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 10, 2001. The hearing officer determined that the first certification of maximum medical improvement (MMI) and impairment rating (IR) certified by Dr. B (the first certification), became final pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.5(e) (Rule 130.5(e)). The hearing officer also determined that the Texas Workers' Compensation Commission (Commission) did not abuse its discretion in failing to appoint a designated doctor in this case. Appellant (claimant) appealed these determinations, contending that she had good cause for failing to dispute, and asserting that respondent (carrier) disputed the first certification. Carrier responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

We have reviewed the complained-of determination that the first certification became final and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The hearing officer could find that there was no "good cause" that it would excuse the requirement of a dispute under Rule 130.5(e). Rule 130.5(e), as it existed in February 1998 when claimant received written notification of the first certification, applies in this case. As such, in accordance with Rodriguez v. Service Lloyds Ins. Co., 997 S.W.2d. 248 (Tex. 1999), there were no exceptions to the 90-day Rule.[1] Claimant also asserts that she was not required to dispute the first certification because carrier already disputed it. However, the hearing officer determined that carrier did not dispute the first certification, and this determination is supported by the evidence. In any case, claimant was required to enter her own dispute and, even if she could have relied on carrier's alleged dispute, there was no evidence she did so. We conclude that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

[1] We note that the amended version of Rule 130.5(e) does not apply in this instance because the claimant received notice of Dr. B's first certification on February 11, 1998; thus, the 90-day dispute period expired prior to the March 13, 2000, effective date of amended Rule 130.5(e). *See* Texas Workers' Compensation Commission Appeal No. 010079, decided February 20, 2001.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **ASSOCIATION CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

HAROLD FISHER, PRESIDENT
ASSOCIATION CASUALTY INSURANCE COMPANY
3420 EXECUTIVE CENTER DRIVE
AUSTIN, TEXAS 78766.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge