

APPEAL NO. 021111
FILED JUNE 10, 2002

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 2, 2002. With regard to the disputed issues before him, the hearing officer determined that the appellant's (claimant) compensable (right cubital tunnel and right carpal tunnel) injury includes complex regional pain syndrome (CRPS, also known as reflex sympathetic dystrophy (RSD)); that the claimant reached maximum medical improvement (MMI) on July 19, 2001;¹ and that the claimant's impairment rating (IR) is 0% as assessed by the designated doctor.

The claimant appeals, summarizing in some detail the various medical reports, urging that the designated doctor's report is incorrect and that the respondent's (carrier) required medical examination (RME) doctor's 16% IR should be adopted; or, that the case be remanded for the appointment of a second designated doctor. The carrier responds, urging affirmance.

DECISION

Affirmed as reformed.

The claimant was employed as a laborer and the parties stipulated that the claimant sustained a compensable injury "to at least the right cubital tunnel and the right carpal tunnel" on _____. It is undisputed that the claimant sustained multiple trauma injuries to his hands when they were hit by a motor-driven pipe wrench.

Basically, most of the doctors, including the treating doctor, several referral doctors, a carrier peer review doctor, a carrier RME doctor, and a Texas Workers' Compensation Commission (Commission) RME doctor were of the opinion that the claimant had some form of RSD or CRPS. The hearing officer found that the claimant had CRPS, and that the designated doctor's opinion does not carry presumptive weight on the issue of extent of injury. The hearing officer's determination on this issue is supported by the evidence and is affirmed.

The carrier asserts that the IR schemes for RSD/CRPS are not specifically provided for in the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association and the hearing officer has discretion as to whether to rate such a condition in terms of nerve damage, citing Texas Workers' Compensation Commission Appeal No. 001120, decided July 5, 2000. The only IR in evidence, other than the designated doctor's report, is the carrier's RME doctor's report dated July 24, 2001, where he certified a July 19, 2001, MMI date with a 16% IR. The IR was calculated by finding ulnar, median, and

¹ The hearing officer's Finding of Fact No. 6 contains a typographical error showing MMI as July 16, 2001. We reform that determination to be July 19, 2001, which is supported by the evidence.

radial nerve sensory deficits, and various right elbow and right wrist loss of range of motion. Claimant's Exhibit No. 7. The designated doctor also certified MMI on July 19, 2001, but stated in his report dated September 13, 2001, that he failed to find the deficits noted by the carrier's RME doctor's report, that he did not find the claimant's symptoms to be permanent, that there was no "objective incidence of sensory damage," and that the claimant's surgery had been successful.

Section 408.125(e) provides that the "report of the designated doctor shall have presumptive weight and the commission shall base the [IR] on that report unless the great weight of the other medical evidence is to the contrary." In this case, where there are only two IR reports in evidence, the hearing officer did not err in adopting the designated doctor's report as to the MMI date and the IR. The fact that the hearing officer found that the claimant had CRPS does not mandate that the hearing officer was required to adopt the carrier's RME doctor's report on MMI and IR, especially when there is a medical conflict whether the condition is permanent. The hearing officer weighed the credibility and inconsistencies in the evidence and the hearing officer's determination on the issues 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).

The hearing officer's decision and order are affirmed as reformed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge