

APPEAL NO. 031179
FILED JUNE 18, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 10, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) reached maximum medical improvement on June 23, 2001, as was stipulated to by the parties, and that the claimant's impairment rating (IR) is 14%, as was certified by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The claimant appealed the IR determination, and the respondent (carrier) responded.

DECISION

Affirmed.

For a claim for workers' compensation benefits based on a compensable injury that occurred before June 17, 2001, Section 408.125(e) provides that if the designated doctor is chosen by the Commission, 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, and that if the great weight of the medical evidence contradicts the IR contained in the report of the designated doctor chosen by the Commission, the Commission shall adopt the IR of one of the other doctors.

A referral doctor certified that the claimant's IR is 37%. The treating doctor agreed with the IR assigned by the referral doctor. The designated doctor assigned the claimant a 14% IR. In light of the designated doctor's report regarding range of motion (ROM) testing, the hearing officer was not persuaded that the designated doctor failed to perform ROM testing. The hearing officer found that the great weight of the other medical evidence is not contrary to the report of the designated doctor, and concluded that the claimant's IR is 14% as certified by the designated doctor. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION** for **Reliance Insurance Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLEY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge