

APPEAL NO. 033334  
FILED FEBRUARY 4, 2004

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 December 9, 2003. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) impairment rating (IR) is 16% as reported by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The appellant (carrier) appeals, contending that the hearing officer erred in giving presumptive weight to the report of the designated doctor. The claimant asserts that the evidence supports the hearing officer's decision.

DECISION

Affirmed.

The parties stipulated that the claimant's compensable injury of \_\_\_\_\_, includes a left wrist strain, left carpal tunnel syndrome (CTS), and left upper extremity regional pain syndrome, and that the claimant reached maximum medical improvement (MMI) on March 19, 2003, which is the date of MMI certified by the designated doctor. As a result of his injury, the claimant underwent surgery to his left wrist for instability of the dorsal capsule in April 2001, and then underwent surgery for his left wrist CTS in July 2002. The designated doctor examined the claimant on March 19, 2003, and certified that the claimant reached MMI on that date and assigned the claimant a 16% IR for loss of range of motion and loss of strength. The carrier's peer review doctor reviewed the designated doctor's report and other medical records, but did not examine the claimant. The carrier's peer review doctor disagreed with the designated doctor's IR and wrote that the claimant's IR should be 7%. The designated doctor provided further explanation for the 16% IR in a response to the peer review doctor's report, noting that the claimant had three diagnoses, and not just CTS.

For a claim for workers' compensation benefits based on a compensable injury that occurs 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. The hearing officer found that the 16% IR assigned by the designated doctor was not contrary to the great weight of the other medical evidence and gave presumptive weight to the designated doctor's IR. The hearing officer concluded that the claimant's IR is 16%. 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 determines what facts have been established from the evidence presented. 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 **NATIONAL AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**STEPHEN C. CARLIN  
13155 NOEL ROAD  
900 THREE GALLERIA TOWER  
DALLAS, TEXAS 75240.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge