

APPEAL NO. 040664
FILED MAY 17, 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 February 23, 2004. The hearing officer decided that the respondent (claimant) has a 10% impairment rating (IR), as certified by the claimant's referral doctor. The appellant (carrier) appeals this determination on sufficiency of the evidence grounds, asserting that the designated doctor's report is not contrary to the great weight of the other medical evidence. The claimant did not file a response.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's IR is 10%. Section 408.125(c) provides that the report of the designated doctor has presumptive weight and the Texas Workers' Compensation Commission (Commission) shall base the IR on that report unless the great weight of the other medical evidence is to the contrary. If the great weight of the other 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. Whether the designated doctor's report is contrary to the great weight of the other medical evidence involves a question of fact for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 000869, decided June 7, 2000. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's IR determination is 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 decision and order of the hearing officer are affirmed.

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 RAY OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701-3403.**

Edward Vilano
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Margaret L. Turner
Appeals Judge