

APPEAL NO. 040682  
FILED MAY 19, 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 March 2, 2004. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) impairment rating (IR) is 19% as certified by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The appellant (carrier) appeals, contending that the great weight of the medical evidence is contrary to the findings of the designated doctor and requests that we render a decision that the claimant's IR is 6% as reported by the carrier's required medical examination (RME) doctor, or, in the alternative, remand the case for the appointment of a new designated doctor. No response was received from the claimant.

DECISION

Affirmed as reformed herein.

We reform Finding of Fact No. 5 to reflect that the carrier's RME doctor evaluated the claimant on January 15, 2004 (not 2003).

It is undisputed that on \_\_\_\_\_, the claimant sustained a compensable injury to his left elbow and right wrist. The parties stipulated that the claimant reached maximum medical improvement (MMI) on July 3, 2003, which is the date the designated doctor evaluated the claimant and certified that the claimant reached MMI. As a result of the compensable injury, the claimant had two surgeries on his left elbow before he reached MMI. The designated doctor certified that the claimant has a 19% IR. The carrier's RME doctor certified that the claimant has a 6% IR. Another doctor and a physical therapist gave testimony regarding the claimant's condition.

Section 408.125(c) 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. The hearing officer found that the great weight of the medical evidence did not overcome the presumptive weight afforded to the findings of the designated doctor and concluded that the claimant's IR is 19% 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).

As reformed herein, we affirm the hearing officer's decision and order.

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

**CORPORATION SERVICE COMPANY  
800 BRAZOS STREET, SUITE 750  
AUSTIN, TEXAS 78701.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Edward Vilano  
Appeals Judge