

APPEAL NO. 041919
FILED SEPTEMBER 21, 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 July 7, 2004. The hearing officer determined that the _____, compensable injury of appellant (claimant) “does not include or extend to include degenerative changes or spondylosis at C4-C5, C5-C6, and C6-C7, disc herniations at C4-C5, C5-C6, C6-C7, and spinal stenosis at C4-C5, C5-C6, and C6-C7.” The hearing officer also determined that claimant failed to submit to a required medical examination (RME) on February 12, 2004, and that she did not have good cause for failing to do so; that she is not entitled to temporary income benefits (TIBs) from February 12, 2004, through the date of the hearing; and that claimant did not have disability from February 12, 2004, through the date of the hearing. Claimant appealed these determinations on sufficiency grounds. Respondent (carrier) responded that the hearing officer did not err in making her determinations.

DECISION

We affirm.

We have reviewed the complained-of determinations regarding extent of injury and disability and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are supported by the record and are 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).

Claimant contends the hearing officer erred in determining that she failed to submit to the RME exam with Dr. L on February 12, 2004. She asserts that she submitted to the examination, but was told that the doctor could not see her because of her surgery. Claimant's cervical discectomy and fusion surgery took place in December 2003. In his February 12, 2004, report, Dr. L stated that claimant came to the examination appointment, but that she was very upset because she thought he had given her a “0 percent on the rating.” Dr. L said, “because of [combative] nature of patient we have not evaluated her. You should have [somebody] else evaluate her.” The hearing officer stated that claimant was hostile and created conflict with Dr. L “amounting to a failure to be compliant with the order for evaluation.” The hearing officer determined that claimant failed to submit to the RME exam, that she did not have good cause for such failure, and that she is not entitled to TIBs from February 12, 2004, through the date of the hearing. The hearing officer heard claimant's evidence regarding what happened at the appointment with Dr. L and made her determinations based on the evidence before her. We perceive no reversible error. See Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.6(h) (Rule 126.6(h)); Section 408.004(e); Texas Workers' Compensation Commission Appeal No. 010407, decided April 5, 2001.

We affirm the hearing officer's decision and order.

According to information provided by carrier, 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.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge