APPEAL NO. 042194
FILED OCTOBER 14, 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 August 11, 2004. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on July 2, 2003, with an impairment rating (IR) of zero percent, as certified by the Texas Workers' Compensation Commission (Commission)-appointed designated doctor. The hearing officer also found that the compensable injury sustained on _____, does not extend to and include herniated discs at the C5-6 and C6-7 levels of the cervical spine. The claimant appeals the determinations on sufficiency grounds. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant reached MMI on July 2, 2003, with a zero percent IR, as certified by the Commission-appointed designated doctor. The claimant asserts that the designated doctor's certification is contrary to the great weight of the other medical evidence and requests adoption of the required medical examination (RME) doctor's certification, which he believes fully evaluates his condition. Whether the great weight of the other medical evidence was contrary to the opinion of the designated doctor is basically a factual determination. Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. We view the report of the RME doctor as representing a difference in medical opinion, which does not rise to the level of the great weight of medical evidence contrary to the designated doctor's report. The claimant also argued that the designated doctor's certification was questionable because of the "inadequacy of the examination," his demonstrated lack of competence in orthopedic issues and his less than forthright application for designated doctor status. We have reviewed the allegations and find no error in the hearing officer's adoption of the designated doctor's report. The hearing officer's MMI/IR determination is 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 (Tex. 1986).

The hearing officer also did not err in making the extent-of-injury determination. The determination involved questions of fact for the hearing officer to resolve. 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 determination is so

against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **COMMERCE AND INDUSTRY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Daniel R. Barry
Appeals Judge

_____
Gary L. Kilgore
Appeals Judge