

## APPEAL NO. 950378

Pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), a contested case hearing was held in (city), Texas, on February 9, 1995, (hearing officer) presiding as hearing officer. He determined that the appellant's (claimant) correct impairment rating (IR) was seven percent as certified by the Texas Workers' Compensation Commission's (Commission)-selected designated doctor. The claimant appeals urging that "[t]estimony provided and medical evidence has shown that the appellants [sic] [IR] is 17%" which is the great weight of evidence to the contrary of the designated doctor's report. The respondent (city) urges that the decision be affirmed and that it is supported by the evidence.

### DECISION

Affirmed.

We find this appeal to be totally lacking in merit. The only issue in this case is the correct IR, the fact of a compensable back injury occurring on (date of injury), not being contested. The claimant's treating doctor, (Dr. B), rendered an IR of 17% on August 21, 1993. Because of a dispute, the Commission selected (Dr. H) as the designated doctor. In a detailed and thorough report, Dr. H certified an IR of seven percent which include his assessment of a specific disorder and some range of motion (ROM) deficit utilizing the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides). He subsequently responded to an inquiry from the Commission to a question regarding ROM and explained his methodology. At the hearing, no testimony was presented (contrary to the assertion in the appeal that "testimony provided" and medical evidence constituted the great weight) and the only evidence contrary to the designated doctor's report was the formatted report setting out 17%. We have stated many times that the designated doctor occupies a unique position under the 1989 Act and that only the great weight of other medical evidence will overcome it. Section 408.125(e); Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992; Texas Workers' Compensation Commission Appeal No. 950223, decided March 30, 1995. Following our review of the record in this case, we find absolutely no basis to disturb the determinations of the hearing officer. He is clearly supported by sufficient evidence. Accordingly, the decision and order are affirmed.

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Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Susan M. Kelley  
Appeals Judge