

APPEAL NO. 980175
FILED MARCH 13, 1998

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 5, 1998, a hearing was held. The (hearing officer) determined that respondent (claimant) was entitled to supplemental income benefits (SIBS) for the 16th compensable quarter and that appellant (carrier) was not relieved of liability because claimant did not timely file for such benefits. Carrier asserts that since claimant did not list wages earned, he did not timely file, that claimant's job search was "unstructured," and that 16 of the 70 job contacts were for jobs claimant could not do. The appeals file contains no reply by the claimant.

DECISION

We affirm.

Claimant worked for (employer) in (year) when he injured his back. Claimant's testimony indicated that in some manner he was injured when a 55-gallon drum (or drums) fell off a cart. At any rate, findings of fact that claimant sustained a compensable injury, has an impairment rating (IR) of 18%, has not commuted any benefits, that the filing period for the 16th quarter began on June 14 and ended on September 15, 1997, and that claimant filed his request for SIBS on September 10, 1997, were not attacked on appeal.

Claimant testified that he sought employment with 70 to 74 employers. (His Statement of Employment Status (TWCC-52) has 76 listings.) While carrier cross-examined claimant as to seeking work with 16 warehouses because of claimant's limitations, claimant acknowledged that regular warehouse work was beyond his capability, but said that there still might have been some work he could do for these employers. Carrier, on appeal, also states that the job search was unstructured. There is no requirement as to what structure the search must assume, but the methods and organization of the search are factors that may be considered by the hearing officer, as fact finder, depending on the circumstances and the claimant. In this case, claimant testified that he did not finish high school. Claimant also testified that he can no longer do the work he did previously; he has a lifting limit of 24 pounds. The evidence sufficiently supports the findings of fact that claimant attempted in good faith to find work and that his unemployment is a direct result of the impairment.

The carrier also contends that claimant did not disclose wages earned, so in effect did not timely file a (sufficient) request for SIBS. The facts disclosed at the hearing that claimant filed his TWCC-52 on September 10th, that he worked for three days thereafter, having earned a total of approximately \$108.00 during the week ending September 14, 1997. The hearing officer applied the rationale of Texas Workers' Compensation Commission Appeal No. 962271, decided December 27, 1996, which said that such facts do not show fraud and do not amount to a failure to properly file the TWCC-52.

Finding that the decision and order are sufficiently supported by the evidence, we affirm. See In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Joe Sebesta
Appeals Judge

CONCUR:

Tommy W. Lueders
Appeals Judge

Judy L. Stephens
Appeals Judge