

APPEAL NO. 990468

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 22, 1999, a hearing was held. The (hearing officer) determined that the respondent (claimant) is entitled to supplemental income benefits (SIBS) for the second compensable quarter. Appellant (carrier) on appeal takes issue with several findings of fact, but only discusses its contention that the claimant restricted her job search to an extent that she should not be entitled to SIBS. Claimant replied that the decision should be affirmed.

DECISION

We affirm.

Claimant worked for (employer) at the time she was injured on \_\_\_\_\_, in a slip and fall. While one of the determinations that carrier takes issue with is the filing period for the second period, carrier offered no time period other than that provided in the benefit review conference and by the hearing officer. As a result, the filing period for the second quarter is considered to be from August 12, 1998, to November 9, 1998. The parties did stipulate to an impairment rating of 17% and to no commutation of benefits.

Claimant testified that she had cervical surgery in May 1997. The evidence shows that she was working as a cook at a school when injured. Dr. S, who performed the surgery, said, in July 1998, just before the beginning of the filing period in question, that claimant could not return to her "regular work." While not specific at all, this statement together with claimant's current limitations of lifting no more than 20 pounds occasionally, sufficiently support the finding of fact that claimant's unemployment was a direct result of the impairment.

Claimant did not dispute that she could do some work. She looked for work in the filing period in question. While her list of contacts shows some employers listed twice, she testified that she sought different jobs at times from the same place, such as a school district. The list of jobs sought does tend to bear this out and indicates that claimant had contacts concerning over 20 jobs. She testified that she had four interviews but received no offer.

Claimant testified to her training in food service and also stated that she could do some kitchen work without exceeding her limitations. In addition to various cook's helper jobs sought, she also applied for teacher's helper jobs, nurse's helper jobs, and bus monitor positions. Carrier examined claimant about her failure to make any job contacts in the secretarial area. Claimant said she chose to look for work in areas where she had some training, such as food service and nurse's aide.

The hearing officer is the sole judge of the weight and credibility of the evidence. See Section 410.165. The question of whether a person has attempted in good faith to find

work commensurate with one's ability is one of fact for the hearing officer to determine. In this case, the hearing officer heard the argument that claimant did not sufficiently broaden her search to reach the level of good faith. As stated, good faith is a matter for the hearing officer to determine; Sections 408.142 and 408.143 do not restrict the hearing officer's consideration of what constitutes good faith by imposing any number of job contacts or any number of job fields on a search in order for it to meet the "good faith" test. The evidence sufficiently supports the determination that claimant attempted in good faith to find work.

Finding that the determination 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).

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Joe Sebesta  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge