APPEAL NO. 991488

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 June 17, 1999. With respect to the sole issue before her, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBS) for the 16th compensable quarter. In its appeal, the appellant (carrier) argues that the hearing officer's determinations that the claimant made a good faith job search in the filing period, that his unemployment was a direct result of his impairment, and that he is entitled to 16th quarter SIBS are against the great weight of the evidence. In his response, the claimant urges affirmance.

DECISION

Affirmed.

The parties stipulated that on _____, the claimant sustained a compensable injury to his right knee and right ankle that resulted in a 16% impairment rating; that he did not commute his impairment income benefits; and that the 16th quarter of SIBS ran from March 11 to June 9, 1999, with a corresponding filing period of December 10, 1998, to March 10, 1999. The claimant testified that at the time of his compensable injury, he was working as a second assistant motor winder, which required him to be on his feet standing or squatting for at least 10 hours per day. He testified that he would not be able to return to that position because of his restrictions from the compensable injury. Dr. G is the claimant's treating doctor. In a Work Status Report dated April 28, 1999, Dr. G stated that the claimant could return to work with restrictions against repetitive squatting, crawling on hands and knees, and climbing stairs and ladders.

The claimant testified that during the filing period for the 16th quarter he applied with 28 potential employers. Those 28 applications lead to nine job interviews; however, the claimant was not offered employment. The claimant stated that he identified potential employers by looking in the newspaper, searching the internet, and registering with the Texas Workforce Commission. The claimant stated that he also followed up on the leads provided to him by the vocational rehabilitation specialist retained by the carrier. The claimant testified that on December 15, 1998, he completed his certification at a junior college to be a medical transcriptionist specialist, which retraining was sponsored by the Texas Rehabilitation Commission. The claimant explained that he applied primarily for clerical, data entry, and medical transcription positions, because those jobs were best suited to his restrictions. He testified that he sought full-time employment and that he did not limit the days or the hours he was available for work.

The hearing officer determined that the claimant made a good faith effort to look for work in the relevant filing period. That question presented a question of fact for the hearing officer. It was the hearing officer's responsibility, as the sole judge of the evidence under Section 410.165(a), to consider the evidence concerning the claimant's job search efforts in

the filing period and to determine if the claimant sustained his burden of proving a good faith job search. In making her good faith determination, the hearing officer was free to consider the number of employment contacts made and the nature of those contacts. To that end, the hearing officer noted that the "[c]laimant's employment search efforts were systematic, methodical, and demonstrated forethought." After reviewing the testimony and evidence, the hearing officer was persuaded that the claimant's job search efforts rose to the level of a good faith search for employment. Our review of the record does not reveal that that determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse it on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The carrier also asserts error in the determination that the claimant's unemployment in the filing period was a direct result of his impairment. That issue likewise presented a question of fact for the hearing officer to resolve. We have previously recognized that generally a determination that the claimant's unemployment is a direct result of the impairment is sufficiently supported by evidence that the claimant sustained an injury with lasting effects and could not reasonably perform the type of work he was doing at the time of his injury. Texas Workers' Compensation Commission Appeal No. 960028, decided February 15, 1996. In this instance, the hearing officer determined that "[d]uring the filing period, Claimant was unable to return to his previous employment as a motor winder due to his physical restrictions resulting from his impairment." That determination is sufficiently supported by the claimant's testimony that the motor winder position required frequent squatting and the evidence that Dr. G has restricted the claimant from any squatting. The hearing officer was acting within her province as the fact finder in making the determination that the claimant's unemployment in the filing period was a direct result of his impairment. Nothing in our review of the record reveals that the direct result determination is so contrary to the great weight of the evidence as to compel its reversal on appeal. Pool, *supra*; Cain, *supra*.

The hearing officer's decision and order are affirmed.

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Stark O. Sanders, Jr.
Chief Appeals Judge

_____
Alan C. Ernst
Appeals Judge