

APPEAL NO. 002252

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 14, 2000, with the record closing on August 25, 2000. The appellant (claimant) failed to appear at the CCH and the hearing officer, by letter dated August 14, 2000, advised the claimant that he had 10 days to show good cause for his failure to appear. The hearing officer notes that the claimant failed to respond and the record was closed on August 25, 2000. With regard to the only issue before her, the hearing officer determined that the claimant was not entitled to supplemental income benefits (SIBs) for the fourth compensable quarter.

The hearing officer's decision was mailed to the claimant at a Fort Worth address and then was subsequently mailed to an Oklahoma City address. The claimant's appeal asserts that he had "changed his address" to the Oklahoma City address. The claimant, in his appeal, disputes the dates of the compensable SIBs quarter and qualifying period, asserts a total inability to work, and submits certain medical reports with his appeal. The claimant requests that we reverse the hearing officer's decision and render a decision in his favor. The appeals file does not contain a response from the respondent (self-insured).

DECISION

Affirmed.

The self-insured was present at the CCH convened on August 14, 2000, and in addition to the hearing officer's exhibits entered into certain admissions to include that the claimant sustained a compensable (apparently a cervical, lumbar, and right wrist) injury on _____; that the claimant has a 16% impairment rating (IR) (the claimant, in his appeal, contends that he has an 18% IR); that impairment income benefits (IIBs) have not been commuted; and that the qualifying period for the fourth quarter was from January 14 through April 14, 2000.

Sections 408.142(a) and 408.143, and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) provide that an employee is entitled to SIBs when the IIBs period expires if the employee has: (1) an IR of at least 15%; (2) not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; (3) not elected to commute a portion of the IIBs; and (4) made a good faith effort to obtain employment commensurate with his or her ability to work.

The hearing officer correctly placed the burden of proof on the claimant to prove that he is entitled to the benefits that he is claiming. The claimant presented no evidence and gave no representations regarding his failure to attend the CCH or respond to the hearing officer's August 14, 2000, letter. The claimant made no representations regarding when he changed his address and apparently made no attempt to contact the hearing officer

regarding his failure to attend the CCH, nor in his appeal did he indicate the time or circumstances of his "change of address."

Finding sufficient evidence in the self-insured's admissions at the CCH to support the hearing officer's decision and no reversible error, we affirm the hearing officer's decision and order.

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge