

## APPEAL NO. 002900

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 8, 2000, a contested case hearing was held. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the eight and ninth quarters. The claimant appealed and the respondent self-insured responded.

### DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant did not make a good faith effort to obtain employment during the qualifying periods for the eight and ninth quarters (January 27 to July 26, 2000) and, thus, was not entitled to SIBs for those quarters. Section 408.142(a); Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(b) and (d) (Rule 130.102(b) and (d)).

It is undisputed that during the qualifying periods for the eight and ninth quarters the claimant did not work, look for work, or attend a vocational rehabilitation program. The claimant contended that during the relevant qualifying periods he had no ability to work because of his compensable injury. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The claimant's treating doctor reported that the claimant is unable to work due to his compensable injury. The claimant underwent a functional capacity evaluation (FCE) in March 2000 and the FCE report concluded that the claimant can work in the category of light duty or restricted medium duty. Dr. B performed a required medical examination of the claimant in March 2000 and reported that the claimant can work in the light-duty category. The hearing officer's decision is supported by sufficient evidence and is not against the great weight and preponderance of the evidence.

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge