

APPEAL NO. 010023

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 November 30, 2000. The record was closed on December 4, 2000. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the fifth quarter of eligibility.

The claimant has appealed, arguing that she was unable to work during the fifth quarter and should have been relieved of the obligation to search for employment. The respondent (carrier) counters with facts in favor of affirmance.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in determining that the claimant did not meet the "good faith search for employment" requirement for SIBs entitlement. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)), as applied to this case, defines good faith as follows:

Good Faith Effort. An injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee:

(4) 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[.]

General conclusory statements that a worker has no ability to work do not satisfy the requirement to explain how an injury causes the total inability to work. The hearing officer's opinion that the short August 29, 2000, letter from Dr. M did not fulfill this requirement is supportable. The hearing officer could also consider the videotape showing the claimant performing a range of activities at a garage sale that she gave at her house as reflecting motivated physical capabilities.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual

Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this was the case here, and affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge