

APPEAL NO. 010158

Following a contested case hearing held on January 4, 2001, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issue by determining that the appellant (claimant) was not entitled to fourth quarter supplemental income benefits because the claimant did not look for employment every week during the qualifying period and the claimant failed to provide sufficient documentation to demonstrate that he had made a good faith effort to obtain employment every week during the qualifying period. The claimant appealed the hearing officer's determination. The respondent (carrier) filed a brief requesting that the hearing officer's decision be affirmed.

DECISION

The hearing officer's Finding of Fact No. 8 uses the word "underemployment" twice. This is an obvious typographical error, and we will change the first use of that word to "unemployment." In all other respects, the hearing officer's decision is affirmed.

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

The decision and order of the hearing officer, as modified to correct the typographical error, are affirmed.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge