

APPEAL NO. 010343

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 January 24, 2001. With respect to the issues before him, the hearing officer determined that the respondent (claimant) had no ability to work as a direct result of his impairment from the compensable injury during the qualifying period for the second quarter of supplemental income benefits (SIBs) and that he is entitled to SIBs for the second quarter. However, the hearing officer also determined that because the claimant did not timely file his Application for [SIBs] (TWCC-52) for the second quarter, the appellant (carrier) is relieved of liability for those benefits.

The carrier argues on appeal that the hearing officer erred in making the findings of fact that support the claimant's entitlement to SIBs. Specifically, the carrier contends that the evidence does not support the hearing officer's good faith and direct result determinations. The appeals file does not contain a response to the carrier's appeal from the claimant. In addition, the claimant did not appeal the determination that the carrier is relieved of liability for second quarter SIBs because of the claimant's late filing of his TWCC-52.

DECISION

The hearing officer's decision and order have become final. Section 410.169.

Although the carrier's appeal is not so titled, it is in the nature of a conditional appeal. As noted above, the claimant did not appeal the determination that the carrier is relieved of liability for second quarter SIBs. As such, the carrier is not aggrieved by the determinations it has appealed in that it appears that 401 weeks have passed since the date of injury by the end of the second SIBs quarter. Section 408.083. Accordingly, we dismiss the carrier's appeal.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge