

APPEAL NO. 010345

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 February 1, 2001. With regard to the only issue before him, the hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the seventh quarter.

The claimant appealed the adverse findings contending that she had looked for work commensurate with her ability to work and had in fact found work in a subsequent qualifying period. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

Sections 408.142(a) and 408.143 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) provide the statutory and regulatory requirements for entitlement to SIBs. At issue in this case is whether the claimant made the requisite good faith effort to obtain employment commensurate with her ability to work. The hearing officer's determination that the claimant's unemployment during the qualifying period for the seventh SIBs quarter was a direct result of the claimant's impairment from the compensable injury has not been appealed and will not be addressed further.

The parties stipulated to certain necessary requirements, including that the qualifying period at issue was from December 8, 1999, through March 7, 2000. The claimant's Application for Supplemental Income Benefits (TWCC-52) for the sixth and seventh quarters (there was some overlap on job searches due to a misunderstanding of when the qualifying period was) had about 50 job contacts. Some of the documented job contacts are undated (and the claimant did not recall when she made those contacts) and others were grouped together (12 contacts in one day). The documentation does not support that the claimant made and documented a job contact every week. The claimant's testimony and a pay stub indicated that the claimant did obtain employment in a restaurant about 10 days after the end of the seventh quarter qualifying period.

Rule 130.102(e) provides in pertinent part that, except as provided in subsection (d)(1), (2), (3), and (4) of Rule 130.102, an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts. See *also* Texas Workers' Compensation Commission Appeal No. 000321, decided March 29, 2000; and Texas Workers' Compensation Commission Appeal No. 000776, decided May 30, 2000. The hearing officer's finding that the claimant did not document a job search every week is supported by the evidence. Therefore, the requirements of Rule 130.102(e) have not been met.

Accordingly, the hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge