

APPEAL NO. 010472

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 12, 2001. With respect to the issues before him, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the eighth quarter and is not entitled to SIBs for the ninth quarter. In its appeal, the appellant (carrier) asserts error in the hearing officer's determination that the claimant is entitled to SIBs for the eighth quarter. The appeal file does not contain a response to the carrier's appeal from the claimant. In addition, the claimant did not appeal the determination that he is not entitled to SIBs for the ninth quarter.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that he was assigned a 22% impairment rating; that he did not commute his impairment income benefits; and that the eighth quarter of SIBs ran from August 19 to November 17, 2000, with a corresponding qualifying period of May 6 to August 5, 2000. The claimant worked for the portion of the qualifying period from May 28 to July 12, 2000. The hearing officer determined that the claimant had satisfied the good faith requirement under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(1) (Rule 130.102(d)(1)) by returning to work in a job relatively equal to his ability to work.

The carrier does not dispute the determination that the job the claimant performed was a position that was relatively equal to the claimant's ability to work. Rather, it argues that the hearing officer erred in determining that the claimant had satisfied the good faith requirement in this instance because he did not conduct and document a job search in the period after he stopped working on July 12, 2000, to the end of the qualifying period on August 5, 2000. The hearing officer did not err in determining that the claimant satisfied the good faith requirement under Rule 130.102(d)(1). In Texas Workers' Compensation Commission Appeal No. 001579, decided August 17, 2000, we specifically rejected the argument that a claimant must work in the relatively equal position during each week of the qualifying period in order to satisfy the good faith requirement of Rule 130.102(d)(1). Under the guidance of Appeal No. 001579, we find no merit in the contention that the hearing officer erred as a matter of law in determining that the claimant in this case satisfied the good faith requirement under Rule 130.102(d)(1) by returning to a job relatively equal to his ability to work, albeit for only a portion of the qualifying period. The hearing officer's determination that the claimant satisfied the good faith requirement under Rule 130.102(d)(1) is supported by sufficient evidence and is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Having affirmed the determination that the claimant met the definition of good faith under Rule

130.102(d)(1), he was not required to additionally satisfy the requirement of Rule 130.102(e) to document a job search effort in each week of the qualifying period. Texas Workers' Compensation Commission Appeal No. 000321, decided March 29, 2000.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge