APPEAL NO. 010566

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 December 4, 2000. The hearing officer determined that the appellant (claimant) was not entitled to his eighth quarter of supplemental income benefits (SIBs) because he had not made a search for employment commensurate with his ability to work along the parameters required in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(e) (Rule 130.102(e)). She further found that the claimant had not shown that he had the complete inability to work as required by Rule 130.102(d)(4).

The claimant appeals and questions the fact determinations made by the hearing officer. Conceding that there was no single narrative from a doctor establishing the inability to perform any work, the claimant argues that this was clear from a reading of all medical reports and notes in the record. The respondent (carrier) urges affirmance.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in determining that the claimant was not entitled to SIBs, and she properly applied Rule 130.102 to the dispute. The requirements of either Rule 130.102(d)(4) or 130.102(e) are straightforward and unambiguous. In analyzing whether there is complete inability to work, the hearing officer is not required to accept physical therapy notes as a "narrative" under Rule 130.102(d)(4). The hearing officer is likewise supported in her conclusion that a good faith search for employment is not reflected on the claimant's Application for [SIBs] (TWCC-52).

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). 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 do not agree that this was the case here, and affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge