

## APPEAL NO. 010710

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 28, 2001. With respect to the single issue before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits for the 12th quarter because his unemployment was not a direct result of his impairment from the compensable injury. In his appeal, the claimant argues that that determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance.

### DECISION

Affirmed.

The claimant has the burden of establishing that his unemployment was a direct result of his compensable injury. There was no evidence presented in the record from which the hearing officer could determine that the claimant was unable to return to his previous employment. There was no evidence that the claimant is currently under any job restrictions. The claimant, in fact, sought work similar to his preinjury employment and testified that he believed he was physically capable of performing the duties of all the jobs for which he applied. The issue of whether the claimant was unemployed as a direct result of his compensable injury presented the hearing officer with questions of fact to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel, an appellate-reviewing tribunal, will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

We affirm the decision and order of the hearing officer.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge