

APPEAL NO. 010907
FILED JUNE 7, 2001

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 March 19, 2001. With respect to the single issue before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the eighth quarter. In her appeal, the claimant contends that the hearing officer's determinations that the claimant did not make a good faith effort to look for work commensurate with her ability to work because the job she worked was not relatively equal to her ability to work and that she is not entitled to SIBs are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the eighth quarter, which ran from November 3, 2000, to February 1, 2001, and had a corresponding qualifying period of July 22 to October 20, 2000. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(1) (Rule 130.102(d)(1)) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee "has returned to work in a position which is relatively equal to the injured employee's ability to work." In this instance, it is undisputed that the claimant returned to part-time work at a fast food restaurant throughout the qualifying period. However, the hearing officer was not persuaded by the evidence from the claimant's treating doctor that she was limited to part-time work because of her impairment. Thus, he determined that the job she performed was not "relatively equal" to her ability to work because she did not search for employment in addition to working in her part-time position. The hearing officer was acting within his province as the fact finder under Section 410.165(a) in making the challenged determinations and we are satisfied that those determinations are not so against the great weight of the evidence as to be clearly wrong or manifestly unjust. As such, we will not disturb them, or the determination that the claimant is not entitled to SIBs for the eighth quarter, 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). Although another fact finder could have drawn different inferences from the evidence, which would have supported a different result, that does not provide a basis for us to reverse the hearing officer's decision. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge