APPEAL NO. 010953
FILED JUNE 12, 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 20, 2001. The hearing officer determined that the appellant (claimant) was not entitled to supplement income benefits (SIBs) for the 12th quarter. The claimant appealed the hearing officer's determinations on sufficiency grounds. No response was filed.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to 12th quarter SIBs. The claimant had the burden to prove that he made a good faith effort to obtain employment commensurate with his ability to work during the qualifying period. Texas Workers' Compensation Commission Appeal No. 941490, decided December 19, 1994; Sections 408.142(a)(4) and 408.143(a)(3); Tex, W.C. Comm'n, 28 TEX. ADMIN. Code § 130.102 Rule 130.102. There was conflicting evidence presented with regard to this issue. The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. 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).

The decision and order of the hearing officer are affirmed.

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge