

APPEAL NO. 011075
FILED JUNE 29, 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 April 19, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the sixth and seventh quarters. On appeal, the claimant asserts that the hearing officer erred in each and every finding of fact and conclusion of law rendered against him and that he is entitled to SIBs for the sixth and seventh quarters because he had a total inability to work during the corresponding qualifying periods. In its response, 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 sixth and seventh quarters. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) provides that an injured employee who has an impairment rating of 15% or greater and who has not commuted any impairment income benefits is entitled to SIBs if, during the qualifying period, the claimant has earned less than 80% of the employee's average weekly wage as a direct result of the impairment from the compensable injury and has made a good faith effort to obtain employment commensurate with the employee's ability to work. Rule 130.102(d)(3) states that the "good faith" criterion will be met if the employee "has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work[.]"

The hearing officer determined that the claimant failed to provide a narrative report from a doctor which specifically explained how the injury cause a total inability to work and that there was other evidence that indicated the claimant had some ability to work during the qualifying periods for the sixth and seventh quarters. Those determinations are supported by sufficient evidence and our review of the record does not demonstrate that they are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists to reverse those determinations, or the determination that the claimant is not entitled to SIBs for the sixth and seventh quarters, on appeal. Texas Workers' Compensation Commission Appeal No. 951204, decided September 6, 1995; Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge