

APPEAL NO. 011286
FILED JULY 18, 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 May 23, 2001. The hearing officer determined the sole issue of whether the appellant (claimant) is entitled to supplemental income benefits (SIBs) for the fifth quarter adversely to the claimant. The claimant has appealed on sufficiency of the evidence grounds. There was no response from the respondent (carrier).

DECISION

Affirmed.

The claimant is proceeding on a total inability to work theory. The standard of a good faith job search, when a total inability to work is asserted, is found in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)), and will not be repeated here. There was evidence before the hearing officer from which she could determine that the claimant was able to perform sedentary work; the claimant did not provide a narrative statement from a doctor specifically explaining how the claimant's injury caused a total inability to work; and there is another record, specifically, a functional capacity evaluation conducted on January 16, 2001, during the qualifying period for the fifth SIBs quarter, which shows that the claimant had the ability to work at a light duty capacity. We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the evidence for that of the hearing officer.

The decision and order of the hearing officer are affirmed.

Michael B. McShane
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge