APPEAL NO. 011721
FILED AUGUST 28, 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 June 25, 2001. The hearing officer determined that the claimant was not entitled to supplemental income benefits (SIBs) for his 15th quarter because he had not made a good faith search for employment commensurate with his ability to work.

The claimant appeals and argues that he was following his doctor's direction that he had no ability to work. The carrier seeks affirmance of the decision.

DECISION

The decision is affirmed.

The hearing officer did not err in finding that the claimant was not entitled to SIBs. The claimant contended that he had the complete inability to work at any job. The 1989 Act has, since its effective date, required a job search commensurate with the ability to work in order to qualify for SIBs. It is the exception to this requirement that must be proven. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d) (Rule 130.102(d)) lists the actions that constitute a good faith requirement to search for employment; inability to work in any capacity must be proven through a narrative from the doctor stating why the impairment precludes any ability to work and there must be no other records that show an ability to work. Rule 130.102(d)(4). The claimant in this case admitted he made no search, and medical evidence was conflicting on ability to work. The hearing officer evidently believed that the narratives regarding inability to work were not sufficient, and that other records showed an ability to work.

The hearing officer has properly applied the rule to the facts. An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this is the case here and affirm the decision and order.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

C.T. CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

Susan M. Kelley
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Philip F. O'Neill
Appeals Judge