

APPEAL NO. 011761  
FILED SEPTEMBER 13, 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 12, 2001. The hearing officer held that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for his fourth quarter of eligibility and computed the earnings to be used to figure the SIBs amount due.

The appellant (carrier) appeals and argues that the claimant's self-employment did not constitute a good faith search for employment in every week of the qualifying period. It further argues that as his only restriction was a prohibition against working in noisy areas, he has not met the "direct result" criterion. The claimant responds that the decision should not be set aside merely because different inferences could be drawn.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in holding that the claimant was entitled to SIBs. The hearing officer has summarized pertinent facts. She found that his self-employment constituted a return to work relatively equal to his ability to work. The essence of the appeal is that the carrier disagrees with the weight that the hearing officer gave the evidence. 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 rec'd. n.r.e.). In this case, we find sufficient support for the hearing officer's decision and affirm the decision and order.

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge