

APPEAL NO. 012298
FILED NOVEMBER 8, 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 September 4, 2001. The hearing officer found that the appellant (claimant) did not make a good faith effort to obtain employment commensurate with her ability to work and was not therefore entitled to supplemental income benefits (SIBs) for the 11th quarter of eligibility.

The claimant has appealed on sufficiency grounds and the respondent (carrier) has responded by requesting affirmance.

DECISION

Affirmed.

The Legislature has required a search commensurate with the ability to work in order to qualify for SIBs. This will not mean in all cases that full-time work must be sought. The complete inability to work cannot be satisfied through testimony, but depends upon medical evidence meeting the requirements of Tex. W.C. Comm'n 28 TEX. ADMIN. CODE §130.102(d)(4) (Rule 130.102(d)(4)).

The hearing officer did not err in his decision. While the better practice is to make findings of fact on the elements of Rule 130.102(d)(4) when an injured worker contends a complete inability to work, the hearing officer in his review of the evidence evidently believed that there were records that showed that the claimant had some ability to work and therefore was required to search for employment. While there are medical reports indicating an inability to work, there are reports in evidence from the required medical examination doctor which state the opinion that the claimant can perform some light-duty employment even with her physical restrictions

The 1989 Act makes the hearing officer the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer's decision is supported by sufficient evidence and it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The hearing officer's decision and order are affirmed.

According to the document filed by the carrier at the CCH, the true corporate name of the insurance carrier is **TEXAS HOSPITAL INSURANCE EXCHANGE** and the name and address of its registered agent for service of process is

**FRANK D. WEEDON
SHEEHY SERPE & WARE
2500 TWO HOUSTON CENTER
909 FANNIN STREET
HOUSTON, TEXAS 77010.**

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge