

APPEAL NO. 012442
FILED NOVEMBER 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 September 19, 2001. The hearing officer held that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for her first quarter of eligibility.

The appellant (carrier) appeals and argues that the hearing officer's determination is against the great weight and preponderance of the evidence. The claimant responds, urging affirmance.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in holding that the claimant was entitled to SIBs and had satisfied the good faith search for employment criterion under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)). The hearing officer has summarized the pertinent facts and detailed the narratives that proved a complete inability to work. As he noted, the opinion of the carrier's doctor that the claimant had sedentary ability was based upon the plainly erroneous statement that the claimant had "no active" medical condition, and he was not required to accept it as an "other" record that "showed" (as opposed to merely stated) that the claimant had the 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 ref'd. n.r.e.). In this case, we find sufficient support for the hearing officer's decision and affirm the decision and order.

The true corporate name of the insurance carrier is **COLONIAL CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**WILLIAM HAGAN
12850 SPURLING DRIVE, SUITE 250
DALLAS, TEXAS 75203.**

Susan M. Kelley
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Philip F. O'Neill
Appeals Judge