

APPEAL NO. 012475
FILED NOVEMBER 21, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). This case is back before us after our remand in Texas Workers' Compensation Commission Appeal No. 011813, decided September 20, 2001, wherein we remanded for the hearing officer to comply with HB2600 amending Section 410.164, effective June 17, 2001. The hearing officer complied with the remand by obtaining a physical address for the respondent's (carrier herein) agent for service. The original contested case hearing (CCH) was held on July 17, 2001. With regard to the sole issue before him, the hearing officer determined that the appellant (claimant herein) was not entitled to supplemental income benefits (SIBS) for the sixth quarter. The claimant appeals, contending she was entitled to SIBS for the sixth compensable quarter, and the carrier responds, contending the decision of the hearing officer should be affirmed.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The hearing officer did not err in determining that the claimant was not entitled to sixth quarter SIBs. Sections 408.142 and 408.143 provide, in part, that an employee continues to be entitled to SIBs after the first compensable quarter if the employee (1) has not returned to work or has earned less than 80 percent of her average weekly wage as a direct result of the impairment, and (2) has in good faith sought employment commensurate with her ability to work.

The claimant asserts that she had no ability to work and, therefore, did not make a job search during the qualifying period. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) provides that an injured employee has made a good faith effort to obtain employment commensurate with her ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The hearing officer found that the claimant did not provide a narrative which specifically explains how her injury caused a total inability to work and that other records showed that the claimant is able to return to work. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In view of the evidence and applying our standard of review, we find sufficient evidence to support the hearing officer's findings.

The decision and order of the hearing officer are affirmed.

On remand hearing officer's exhibit 2A reflects that the true corporate name of the insurance carrier is **PACIFIC EMPLOYERS' INS. CO.** and the name and address of its registered agent for service of process is:

**JAVIER GONZALEZ
3421 W. WILLIAM CANNON DR.
STE 131 PMB #113
AUSTIN, TX 78745.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge