APPEAL NO. 012486
FILED DECEMBER 6, 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 25, 2001. He determined that the respondent/cross-appellant (claimant) was not entitled to supplemental income benefits (SIBs) for his fourth quarter of eligibility (because he did not make a good faith search for employment that was documented for every week of the filing period). Because this was the fourth quarter of nonentitlement, he permanently lost entitlement to SIBs. However, the hearing officer made contingent findings that the claimant did not make a good faith search for employment commensurate with his ability to work during the fifth quarter filing period, and was unable to work during the sixth quarter filing period. In making findings that rejected the claimant's contention that he had "no ability" to work, the hearing officer noted the lack of a narrative from a doctor that specifically explained how the injury caused a total inability to work.

The appellant/cross-respondent (carrier) appealed the findings that the claimant's unemployment was the direct result of his impairment, and appealed the determination that the claimant had no ability to work for the sixth quarter. The claimant has responded; however, in this response, the claimant appeals the determinations against him. The carrier responds to the apparent appeal by citing facts in favor of the decision.

DECISION

The hearing officer's decision is affirmed.

The decision was distributed on October 5, 2001; the claimant is deemed to have received this decision no later than October 10, 2001. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)). The appeal was due to be filed not later than October 31, 2001. Section 410.202(a). Because the claimant's response is not postmarked until November 7, 2001, it is not timely as an appeal.

As to the matters timely appealed by the carrier, we find no error by the hearing officer. The medical evidence supports the hearing officer's decision on the disputed findings. 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 affirm the decision and order.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE I
AUSTIN, TEXAS 78701.

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge