

APPEAL NO. 013141  
FILED FEBRUARY 7, 2002

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 November 19, 2001. The hearing officer resolved the disputed issue by concluding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the second quarter. The claimant appeals, arguing that the evidence established that he had an inability to work during the qualifying period. The respondent (carrier) contends that the claimant's failure to serve a copy of the appeal on the carrier renders it untimely. In the alternative, the carrier argues that the decision is correct, supported by sufficient evidence, and should be affirmed.

DECISION

Affirmed.

The carrier argues that the claimant's appeal was untimely because it was not timely served on the carrier. Failure to serve the opposing party does not render an otherwise timely appeal untimely. Texas Workers' Compensation Commission Appeal No. 92397, decided September 21, 1992. It merely extends the time for the other party to file a response. The claimant's appeal was timely filed with the Texas Workers' Compensation Commission.

February 7, 2002 The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_, with an impairment rating of 15% or greater; that the claimant did not elect to commute any portion of his impairment income benefits; that the second quarter of SIBs ran from January 2 to April 2, 2001; and that the qualifying period for the second quarter of SIBs was from September 20 to December 20, 2000.

At issue in this case is whether the claimant satisfied the good faith requirement for SIBs entitlement by establishing that he had no ability to work during the qualifying period corresponding to the second quarter pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)). The hearing officer determined that the claimant failed to meet his burden of proof under Rule 130.102(d)(4). Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination, or the determination that the claimant is not entitled to SIBs for the second quarter, on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**MARCUS MERRITT  
6600 CAMPUS CIRCLE DRIVE EAST #200  
IRVING, TEXAS 75063.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Robert W. Potts  
Appeals Judge