

APPEAL NO. 013220
FILED FEBRUARY 12, 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 December 4, 2001. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the sixth quarter. The claimant appeals the determination on sufficiency grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to sixth quarter SIBs. At issue in this case is whether the claimant had a total inability to work during the qualifying period for the sixth quarter and whether his unemployment was a direct result of his impairment from the compensable injury. These were questions of fact for the hearing officer to resolve. 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 presented, the hearing officer could reach the complained-of findings of fact. The hearing officer's determination that the claimant is not entitled to sixth quarter SIBs is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant asserts that the hearing officer erred in considering a videotape which showed the claimant hitching a boat trailer to a pickup truck during the qualifying period. We note that the claimant did not object to the admission of the videotape at the hearing. The objection was, therefore, waived and will not be considered for the first time on appeal.

The claimant also requests guidance on whether he is "required to drive around looking for employment to satisfy my SIB's requirements" The claimant's request is beyond the scope of our review.

The decision and order of the hearing officer is affirmed.

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

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

Edward Vilano
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge