

APPEAL NO. 020452
FILED APRIL 2, 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 (CCH) was held on January 14, 2002. The hearing officer resolved the disputed issue by concluding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the sixth quarter. The claimant appeals, arguing that factual determinations of the hearing officer are contrary to the great weight of the evidence and that the hearing officer misinterpreted the applicable SIBs rules. The respondent (carrier) contends that the decision is correct, supported by sufficient evidence, and should be affirmed.

DECISION

Affirmed.

It was undisputed that the claimant sustained a compensable injury on _____; that he had an impairment rating of 15% or greater; and that he did not commute any portion of his impairment income benefits. The claimant's position at the CCH was that he had no ability to work during the sixth quarter qualifying period.

The Appeals Panel has repeatedly encouraged hearing officers to make specific findings of fact addressing each of the elements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)). See, e.g., Texas Workers' Compensation Commission Appeal No. 991973, decided October 25, 1999, and Texas Workers' Compensation Commission Appeal No. 001153, decided June 30, 2000. While the hearing officer did not make such specific findings, she did discuss the fact that the claimant failed to produce a narrative medical report which specifically explains how the injury causes the alleged total inability to work and she did make a specific finding that the claimant was not totally unable to perform any type of work in any capacity. It was undisputed that the claimant did not look for work during the relevant qualifying period.

Applying our standard of review, as well as the requirements of the 1989 Act and the rule cited above, we find no error in the hearing officer's determination that the claimant was not entitled to SIBs for the sixth compensable quarter. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). When reviewing a hearing officer's decision for factual

sufficiency of the evidence, we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

We affirm the decision and order of the hearing officer.

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

**C T CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge