

APPEAL NO. 020558
FILED APRIL 17, 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 February 13, 2002. The hearing officer resolved the disputed issue before him by determining that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 5th quarter. The claimant appealed on sufficiency grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was not entitled to SIBs for the 5th quarter. At the hearing, it was undisputed that the claimant had neither returned to work nor documented a job search during the time period in question and that the claimant based his entitlement to SIBs for the quarter in dispute on an assertion of total inability to work. 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 the employee's 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 determined that the claimant did not provide a narrative from a doctor specifically explaining how the injury caused a total inability to work. In addition, the hearing officer noted that the carrier had provided some evidence that the claimant may have been able to work with restrictions in the relevant qualifying period. Whether or not the claimant supplied a narrative was a question of fact for the hearing officer. The hearing officer's determination that the claimant did not provide a narrative pursuant to Rule 130.102(d)(4), and is therefore not entitled to SIBs for the 5th quarter, is supported by sufficient evidence and it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Given our affirmance of the hearing officer's good faith determination, we need not address the claimant's challenge to the hearing officer's direct result determination.

The hearing officer's decision and order are affirmed.

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

**RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Edward Vilano
Appeals Judge