

APPEAL NO. 021269
FILED JUNE 21, 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 April 12, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 13th quarter. The claimant appeals, asserting that he did make a good faith effort to obtain employment commensurate with his ability to work. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer determined that the claimant had the ability to look for work on the days that he was not working part-time doing yard work and odd jobs for three employers, despite the fact that he had a broken ankle for much of the qualifying period (October 26, 2001, through January 24, 2002). The claimant only documented one job search, in addition to working part-time. The evidence is sufficient to support the hearing officer's finding that the claimant did not make a good faith effort to obtain employment commensurate with his ability to work.

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. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and determine what facts have been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (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 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We will reverse a factual determination of a hearing officer only if that determination is 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). Applying this standard of review to the record of this case, we decline to substitute our opinion for that of the hearing officer.

For the foregoing reason, we affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION for Petrosurance Casualty Company, an impaired carrier**, and the name and address of its registered agent for service of process is

**MARVIN KELLY
TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Michael B. McShane
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Susan M. Kelley
Appeals Judge