

APPEAL NO. 021677
FILED JULY 24, 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 June 3, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 11th quarter.

The claimant appeals, contending that there are medical reports which explain why he had a total inability to work and that the respondent's (carrier) choice of doctor "was not objective." The carrier responds, urging affirmance.

DECISION

Affirmed.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) through a total inability to work as set out in Rule 130.102(d)(4). The hearing officer's finding that the claimant's unemployment was a direct result of his impairment has not been appealed. The parties stipulated that the applicable qualifying period was from November 8, 2001, through February 6, 2002.

The claimant claimed that he had no ability to work during the qualifying period. 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 found that there was no narrative report from a doctor which specifically explains how the claimant's injury caused a total inability to work (the reports only mention decreased range of motion and conclude that the claimant "was unable to perform any type of work at any level") and that there were other records that showed the claimant had some ability to work. The hearing officer referenced Rule 130.102(d)(4) and commented that the claimant had failed to sustain his burden of proof.

After review of the record before us and the complained-of determination, we have concluded that there is sufficient factual and legal support for the hearing officer's decision. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

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

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge