APPEAL NO. 021926
FILED SEPTEMBER 9, 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 July 2, 2002. The hearing officer determined that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for the sixth quarter.

The appellant (carrier) appealed, contending that the claimant had not met either the good faith or direct result requirements for entitlement to SIBs. The claimant responded, 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 are both the good faith requirement of Section 408.142(a)(4) and Rule 130.102(b)(2), and the direct result requirement of Section 408.142(a)(2) and Rule 130.102(b)(l).

The claimant's preinjury employment had been as a long haul truck driver which included loading and unloading. The claimant sustained a compensable low back injury on _____, and after surgery was subsequently able to obtain full time employment during the qualifying period as a truck driver hauling loads of road building material using a "belly-dump" tractor trailer truck. The claimant's employment during the qualification period did not require lifting, and met the claimant's lifting and bending restriction. The hearing officer specifically found that the claimant could not return to his preinjury employment because of the restrictions from the compensable injury.

Rule 130.102(c) provides that an injured employee has earned less than 80% of the employee's average weekly wage as a direct result of the impairment from the compensable injury if the impairment from the compensable injury is a cause of the reduced earnings. Rule 130.102(d)(1) 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 returned to work in a position which is relatively equal to the injured employee's ability to work.

The hearing officer found that the claimant met the requirements of Rule 130.102 (c) and 130.102(d)(1) in that the claimant could not return to his preinjury employment and that the claimant's reduced earnings during the qualifying period were as a result of truck driving which did not require lifting and bending and that the employment "was relatively equal to his ability to work".

The complained-of determinations involved questions of fact for the hearing officer to resolve. We hold that the hearing officer's determinations are 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, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Veronica Lopez
Appeals Judge

_____
Robert W. Potts
Appeals Judge