

APPEAL NO. 030637
FILED APRIL 23, 2003

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 14, 2003. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 7th compensable quarter. The claimant appeals this decision. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

Section 408.142(a) outlines the requirements for SIBs eligibility as follows:

An employee is entitled to [SIBs] if on the expiration of the impairment income benefit [IIBs] period computed under Section 408.121(a)(1) the employee:

- (1) has an impairment rating of 15 percent or more as determined by this subtitle from the compensable injury;
- (2) has not returned to work or has returned to work earning less than 80 percent of the employee's average weekly wage as a direct result of the employee's impairment;
- (3) has not elected to commute a portion of the [IIBs] under Section 408.128; and
- (4) has attempted in good faith to obtain employment commensurate with the employee's ability to work.

Rule 130.102 provides that an injured employee who has an IR of 15% or greater and who has not commuted any IIBS is entitled to SIBS if, during the qualifying period, the claimant has earned less than 80% of the employee's preinjury wage as a direct result of the impairment from the compensable injury and has made a good faith effort to obtain employment commensurate with the employee's ability to work. Rule 130.102(d)(4) states that the "good faith" criterion will be met 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[.]

Whether the claimant satisfied the requirements of Rule 130.102(d)(4) for SIBs entitlement was a factual question for the hearing officer to resolve. The hearing officer found that the claimant had some ability to work during the qualifying period in question and there is medical evidence to support these findings. Nothing in our review of the record indicates that the hearing officer's decision is 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 is affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY MANAGER
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Chris Cowan
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Terri Kay Oliver
Appeals Judge