

APPEAL NO. 031933  
FILED AUGUST 28, 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 June 25, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the third quarter.

The appellant (carrier) appealed the good faith job search criteria, citing Texas Workers' Compensation Commission rules and asserting that the claimant's job contacts were not made in good faith. The claimant responds, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in issue is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying period for the third quarter. The direct result criterion of Rule 130.102(b)(1) has not been appealed. The hearing officer considered the evidence, including the claimant's 61 documented job contacts during the qualifying period, and found that the claimant had made a good faith effort to obtain employment commensurate with his ability to work during the third quarter qualifying period.

With regard to the good faith criterion, Rule 130.102(e) provides that, except as provided in subsection (d)(1), (2), (3), and (4) of Rule 130.102, an injured employee who has not returned to work in any capacity shall look for employment commensurate with his ability to work every week of the qualifying period and document his or her job search efforts. That subsection then lists information to be considered in determining whether a good faith effort has been made. Good faith effort is a factual determination for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that 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 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS UNDERWRITING ALLIANCE** and the name and address of its registered agent for service of process is

**DEBRA S. MATHEWS-BUDET  
12200 FORD ROAD, SUITE 344  
DALLAS, TEXAS 75234.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Margaret L. Turner  
Appeals Judge

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Edward Vilano  
Appeals Judge