

APPEAL NO. 032073
FILED SEPTEMBER 16, 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 July 1, 2003. With respect to the single issue before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the ninth quarter. In his appeal, the claimant argues that the determinations that he had some ability to work in the qualifying period for the ninth quarter and that he is not entitled to SIBs for that quarter are against the great weight of the evidence. In its response, the respondent (carrier) urges 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) by showing that he had a total inability to work during the relevant 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 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 did not err in determining that the claimant did not satisfy the requirements of Rule 130.102(d)(4). Specifically, the hearing officer determined that there is not a narrative report that specifically explains how the compensable injury caused a total inability to work in the qualifying period for the ninth quarter and that the report from Dr. K was a record showing that the claimant had some ability to work. Whether there was a sufficient narrative and whether another record showed an ability to work presented factual questions for the hearing officer. Nothing in our review of the record reveals that the hearing officer's determination in that the claimant did not satisfy the requirements of Rule 130.102(d)(4) is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the hearing officer's good faith determination, or the determination that the claimant is not entitled to SIBs for the ninth quarter, on appeal. 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 **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge