

APPEAL NO. 032200
FILED SEPTEMBER 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 June 30, 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 11th quarter. In his appeal, the claimant argues that the hearing officer erred in determining that he is not entitled to SIBs for the 11th quarter because her determination that the claimant did not return to work in a position relatively equal to his ability to work in the qualifying period is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that he reached maximum medical improvement on December 1, 1999, with an impairment rating of 16%; that he did not commute his impairment income benefits; that the 11th quarter of SIBs ran from May 1 to July 30, 2003; and that the qualifying period for the 11th quarter ran from January 17 to April 17, 2003. It is undisputed that the claimant was working part time during the relevant qualifying period.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the 11th quarter. The hearing officer determined that the claimant did not satisfy the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(1) (Rule 130.102(d)(1)) by returning to work in a job relatively equal to his ability to work. The issue of whether the claimant's job in the qualifying period was a job relatively equal to his ability to work was a factual question for the hearing officer. The hearing officer was not persuaded that the claimant sustained his burden of proving that he was limited to part-time work in the qualifying period and she was acting within her role as the fact finder in so assessing the weight and credibility to be given to that evidence. The hearing officer's determination that the claimant did not satisfy the requirements of Rule 130.102(d)(1) in the relevant qualifying period is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust; thus, no sound basis exists for reversing that determination, or the determination that the claimant is not entitled to SIBs for the 11th quarter, on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); 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 **HARTFORD CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JIM ADAMS, ATTORNEY
450 GEARS ROAD, SUITE 500
HOUSTON, TEXAS 77067.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge