

APPEAL NO. 032592
FILED NOVEMBER 14, 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 September 3, 2003. With respect to the issue before her, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first quarter. In its appeal, the appellant (carrier) argues that the hearing officer's determinations that the claimant made a good faith effort to look for work in the qualifying period for the first quarter, that his unemployment was a direct result of his impairment from the compensable injury, and that he is entitled to SIBs for the first quarter are against the great weight of the evidence. In his response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The requirements for entitlement to SIBs are set out in Section 408.142 and in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a compensable injury on _____; that he reached maximum medical improvement on June 20, 2002, with an impairment rating of 20%; that he did not commute his impairment income benefits; and that the first quarter of SIBs ran from June 13 to September 11, 2003, with a corresponding qualifying period of March 1 to May 30, 2003. With regard to the required "good faith" requirement, the hearing officer was satisfied that the claimant proved that he looked for work commensurate with his ability to work during each week of the relevant qualifying period and that he documented those job search efforts. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established (Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). In contending that the claimant's job search efforts do not rise to the level of a good faith search, the carrier emphasizes the same factors it emphasized at the hearing. The significance, if any, of those factors was a matter for the hearing officer to resolve. Nothing in our review of the record reveals that the hearing officer's good faith determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The carrier also contends that the claimant's unemployment was not a direct result of his impairment. The Appeals Panel has consistently held that an injured employee need not establish that the impairment is the only cause of the unemployment or underemployment, but only that it is a cause. Texas Workers' Compensation Commission Appeal No. 011443, decided August 1, 2001; Texas Workers' Compensation Commission Appeal No. 032019, decided September 10, 2003. Our

review of the record demonstrates that the evidence sufficiently supports the hearing officer's determination that the claimant's impairment from the compensable injury is a cause of his unemployment and nothing in our review of the record reveals that the challenged determination is so against the great weight of the evidence as to compel its reversal on appeal. Having affirmed the hearing officer's good faith and direct result determinations, we likewise affirm the determination that the claimant is entitled to SIBs for the first quarter.

The hearing officer's decision and order are affirmed.

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

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge