

APPEAL NO. 032657
FILED NOVEMBER 25, 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 16, 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 sixth quarter. In his appeal, the claimant argues that the hearing officer's determinations that he did not make a good faith job search in accordance with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(e) (Rule 130.102(e)) in the qualifying period for the sixth quarter and that he is not entitled to sixth quarter SIBs are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that he was assigned an impairment rating of 15%; that he did not elect to commute his impairment income benefits; and that the sixth quarter of SIBs ran from April 30 to July 29, 2003, with a corresponding qualifying period of January 15 to April 16, 2003. The hearing officer did not err in determining that the claimant is not entitled to SIBs for the sixth quarter. Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and 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 relevant qualifying period. The hearing officer determined that the claimant did not look for work in each week of the qualifying period for the sixth quarter and indeed the evidence in the record demonstrates that no job searches are documented in either week one or week two of the qualifying period, more specifically the period from January 15 to January 28, 2003. Accordingly, the hearing officer did not err in determining that the claimant did not satisfy the good faith requirement under Rule 130.120(e), which specifically requires that "an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts." Although we would agree with the claimant that his ultimate success in finding employment with two employers in August, shortly after the end of the sixth quarter, is strongly indicative of the good faith nature of his job search efforts, we note that Rule 130.102(e) requires that a job search be made every week of the qualifying period. There are simply no exceptions listed to this requirement and, as such, we find no merit in the assertion that the hearing officer erred in imposing a requirement that is plainly established in Rule 130.102(e).

The hearing officer's decision and order are 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

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge