

APPEAL NO. 032924
FILED DECEMBER 30, 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 October 9, 2003. The hearing officer decided that the appellant (claimant herein) was not entitled to supplemental income benefits (SIBs) for the third quarter. The claimant appeals and argues that the hearing officer's decision is contrary to the evidence. The respondent (carrier herein) replies that the decision of the hearing officer should be affirmed.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The claimant has the burden of proving entitlement to SIBs for any quarter claimed. The eligibility requirements for SIBs are set out in Sections 408.142 and 408.143 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(b) (Rule 130.102(b)) and will not be repeated here. In the present case, the hearing officer found that the claimant failed to prove the requirement that his unemployment during the qualifying period was a direct result of the impairment resulting from the compensable injury. Whether a claimant satisfied the direct result requirement for SIBs entitlement is a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). As an appellate tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The evidence was conflicting and applying the standard of review stated above, we find no legal basis to overturn the decision of the hearing officer.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION** for **Reliance National Indemnity Company**, an **impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge