

APPEAL NO. 033075
FILED JANUARY 9, 2004

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 22, 2003. The hearing officer resolved the disputed issue by determining that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the eighth quarter. In his appeal, the claimant asserts error in that determination. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) either by showing that he had a total inability to work during the qualifying period for the eighth quarter or by conducting a good faith job search. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (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 was not persuaded that the evidence presented by the claimant was sufficient to satisfy the requirements of Rule 130.102(d)(4). Specifically, the hearing officer determined that there was not a narrative that specifically explained how the claimant's injury caused a total inability to work. Nothing in our review of the record reveals that the hearing officer's determination in that regard 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 that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). The hearing officer likewise was not persuaded that the claimant conducted a good faith job search during the relevant qualifying period. Our review of the record does not reveal that that determination is so against the great weight of the evidence as to compel its reversal. Because we have affirmed the hearing officer's determinations that the claimant did not satisfy the good faith requirement under either Rule 130.102(d)(4) or Rule 130.102(e), we also affirm her determination that the claimant is not entitled to SIBs for the eighth quarter.

We find no evidence to support the claimant's assertions that the hearing officer placed an "undue burden" upon him or that she "superceded" the 1989 Act. Thus, we perceive no error.

The hearing officer's decision and order are affirmed.

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

**RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge