

APPEAL NO. 033242
FILED FEBRUARY 6, 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 November 19, 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 fifth 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 and that he is not entitled to fifth quarter SIBs are against the great weight of the evidence. The appeal file does not contain a response to the appeal from the respondent (carrier).

DECISION

Affirmed, as reformed.

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 fifth quarter of SIBs ran from July 26 to October 24, 2003, with a corresponding qualifying period of April 13 to July 12, 2003. We note that Finding of Fact No. 2.f. states "Claimant did conduct a job search every week during the qualifying period." However, in her discussion, the hearing officer states "the evidence was insufficient to establish that he conducted a job search during every week of the qualifying period. The evidence failed to establish that the Claimant conducted a job search during week 11 (June 22, 2003 through June 28, 2003)." It is apparent that Finding of Fact No. 2.f. contains a typographical error. Accordingly, we reform that finding, as follows, to properly reflect the hearing officer's actual finding: "Claimant did not conduct a job search every week during the qualifying period."

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the fifth 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 evidence in the record demonstrates that no job searches are documented in the period from June 22 to June 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."

As reformed, 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 OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge