

APPEAL NO. 040306
FILED MARCH 29, 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 January 26, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 18th (March 25 through June 23, 2003), or 19th (June 24 through September 22, 2003), quarters. The claimant appealed, arguing that the great weight of the evidence is contrary to the hearing officer's decision. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated to the eligibility criteria of a compensable injury, impairment rating, no commutation of impairment income benefits, and that the qualifying periods for the 18th and 19th quarters were from December 11, 2002, through June 10, 2003. At issue is the requirement of Section 408.142(a)(4) and Rule 130.102(b)(2) that the claimant has made a good faith effort to obtain employment commensurate with his ability to work. The claimant proceeds on a basis that he had a total inability to work in the 18th and 19th quarter qualifying periods.

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 report 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 found that the claimant failed to prove he had no ability to work and failed to provide a detailed narrative report from a doctor which specifically explained how his compensable injury caused a total inability to work. Our review of the evidence presented at the hearing indicates that there is sufficient support for the hearing officer's determination that the claimant failed to meet the requirements to make a good faith effort to obtain employment under Rule 130.102(d)(4).

We have reviewed the complained-of determinations and conclude that the hearing officer's determinations are not 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).

We affirm the decision and order of the hearing officer.

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

**MR. RUSSELL OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge