

APPEAL NO. 040523  
FILED APRIL 28, 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 February 11, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the eighth quarter. The appellant (carrier) appeals this determination on legal and evidentiary grounds. The claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to eighth quarter SIBs. Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) establish the requirements for entitlement to SIBs. At issue is whether the claimant made a good faith job search commensurate with her ability to work, pursuant to Rule 130.102(d)(5) and (e), and, in the alternative, whether she returned to work in a position relatively equal to her ability to work, pursuant to Rule 130.102(d)(1). It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review indicates that the hearing officer failed to consider Rule 130.102(d)(1) and (e) in reaching his decision. In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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 (Tex. 1986).

The carrier also appeals the hearing officer's finding that the "[c]laimant did not earn any income," during the qualifying period. This was a question of fact for the hearing officer to resolve. In view of the claimant's testimony, we cannot conclude that the hearing officer's determination in this regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra.

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for United Pacific Insurance company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR  
T.P.C.I.G.A.  
9120 BURNET ROAD  
AUSTIN, TEXAS 78758.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge