

APPEAL NO. 040763  
FILED MAY 21, 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 March 15, 2004. The hearing officer decided that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 12th and 14th quarters. The appellant (carrier) appeals essentially on sufficiency of the evidence grounds and asserts that the hearing officer failed to consider Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(e) (Rule 130.102(e)) in reaching her decision. The claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to 12th and 14th quarter SIBs. Section 408.142 and Rule 130.102 establish the requirements for entitlement to SIBs. At issue was whether the claimant made a good faith job search commensurate with his ability to work during the qualifying period, pursuant to Rule 130.102(d)(5) and (e). 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). Contrary to the carrier's assertion, nothing in our review indicates that the hearing officer failed to consider Rule 130.102(e) in reaching her 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 decision and order of the hearing officer is 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 RAY OLIVER, PRESIDENT  
221 WEST 6TH STREET, SUITE 300  
AUSTIN, TEXAS 78701.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge