

APPEAL NO. 041219
FILED JULY 13, 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 April 21, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the eighth quarter, September 13 through December 12, 2003, or the ninth quarter, December 13, 2003, through March 12, 2004. The claimant appealed, arguing that the evidence presented established that she had a total inability to work during the qualifying periods at issue. The appeal file does not contain a response from the respondent (carrier).

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 claimant contends that she has met the requirement of Section 408.142(a)(4) and Rule 130.102(b)(2) in that she has made a good faith effort to obtain employment commensurate with her ability to work by having a total inability to work in any capacity. The hearing officer's determination that the claimant's unemployment was not a direct result of her impairment was also appealed. The parties stipulated to the eligibility criteria of a compensable injury, impairment rating, no commutation of impairment income benefits, and that the qualifying period for the eighth quarter was from June 1 through August 30, 2003, and the qualifying period for the ninth quarter was from August 31 through November 29, 2003.

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 commented that the record is "replete with medical records indicating that the claimant not only is able to work, but is able to return to pre-injury employment." The hearing officer found that the claimant had the ability to return to her preinjury duties during the qualifying periods in dispute; that the claimant's unemployment was not a direct result of the impairment from the compensable injury; and that during the qualifying periods at issue, the claimant did not make a good faith effort to secure employment commensurate with her abilities. Our review of the record indicates the hearing officer's determinations are supported by the evidence.

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 **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge