

APPEAL NO. 042109
FILED OCTOBER 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 August 5, 2004. The hearing officer determined that: (1) the respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the 9th quarter; (2) the claimant is entitled to 10th quarter SIBs; (3) the appellant (carrier) waived its right to dispute entitlement to 11th quarter SIBs; and (4) because the carrier waived the right to dispute 11th quarter SIBs, the claimant is entitled to 11th quarter SIBs. The carrier appeals the hearing officer's determination that the claimant is entitled to 10th quarter SIBs on sufficiency of the evidence grounds. The remaining determinations were not appealed and have become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to 10th 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 his ability to work during the qualifying period. 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). In view of the applicable law and 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 **AMERICAN PROTECTION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, COMMODORE 1, SUITE 750
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge