

APPEAL NO. 92349

By decision of the Appeals Panel dated June 22, 1992, we noted that we did not have jurisdiction to consider the appeal, in accordance with Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN. Article 8308-6.41(a) (Vernon's Supp. 1992) (1989 Act), that had been filed by the claimant. Texas Workers' Compensation Commission Appeal No. 92183 (Docket No. redacted) decided June 22, 1992. Appellant seeks a rehearing of this appeal, and has furnished affidavits from her sister and herself that the appeal was mailed to the Texas Workers' Compensation Commission (Commission) on March 21, 1992, which would be within the time required by Article 8308-6.41(a). Respondent points out that the applicable rule of the Commission not only requires timely mailing, but also receipt of the appeal by the Commission.

We must deny the rehearing, not only because of the absence of statutory authority to reconsider our original decision, but also for the point noted in our decision that there was no record of receipt of the appeal by the Commission prior to May 6, 1992. Respondent has correctly recited the rule requiring receipt of the appeal by the Commission in order to perfect the filing of an appeal.

We pointed out in our last decision that the hearing officer found that appellant sustained a compensable injury in the course and scope of her employment with a subsequent employer who was not before him, and that her disability resulted from that injury. Consequently, it is apparent that appellant may not have been left entirely without remedy, subject, of course, to Articles 8308-5.01, 5.02, 5.03, and 5.21 of the 1989 Act, as well as other applicable provisions.

The motion for rehearing is denied.

Susan M. Kelley
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Philip F. O'Neill
Appeals Judge