

APPEAL NO. 980108

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 12, 1997. With regard to the disputed issues at the CCH, she (hearing officer) determined that the respondent (claimant) sustained a compensable right shoulder injury on _____, and had disability from April 14 to August 25, 1996. The appellant (carrier) appeals, seeks a reversal of the decision and argues that the hearing officer erred in denying its request to add an issue. The claimant does not respond.

DECISION

The appeal in this case was not timely filed and the decision and order of the hearing officer is final. See Sections 410.169 and 410.202.

The decision of the hearing officer was forwarded to the parties by a cover letter dated December 29, 1997, and distributed December 29, 1997. The carrier's request for appeal does not state when it received the decision but the appeals file reflects that its Austin representative signed for receipt of the decision on December 30, 1997.

Unless specified by rule, notices and communications to a carrier are effected by delivery to its Austin representative. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(b) (Rule 102.5(b)). The date a carrier's Austin representative received a particular notice is the date to begin calculating time under the 1989 Act and the Texas Workers' Compensation Commission's (Commission) rules. Rule 102.5(h). An Austin representative's receipt of a decision and order starts the time running for an appeal. Texas Workers' Compensation Commission Appeal No. 93327, decided June 3, 1993.

A request for appeal is timely if it is mailed on or before the 15th day after the appellant receives the decision and if it is received by the Commission on or before the 20th day after the receipt of the decision. Section 410.202; Rule 143.3(c). The 15th day from the date the carrier's Austin representative received the decision was January 14, 1998. The carrier's request for appeal was dated January 15, 1998, and bears a postmark from the same day. In that the appeal was dated and mailed after the statutory 15 days from the date of receipt, it is untimely.

The decision of the hearing officer is final in the absence of a timely appeal. Section 410.169. Determining that the appeal was not timely filed, as set forth above, we have no jurisdiction to review the hearing officer's decision.

Christopher L. Rhodes
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Elaine M. Chaney
Appeals Judge