

APPEAL NO. 980239
FILED MARCH 25, 1998

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 December 17, 1997, in (City), Texas, with (hearing officer) presiding as hearing officer. He determined that the appellant's (claimant) right elbow and right ulnar nerve condition are a result of the compensable injury sustained on _____, but that the claimant's psychological condition is not a result of the compensable injury. The claimant appeals, expressing her disagreement with that decision.

DECISION

Determining that the claimant's request for review was not timely filed and that the jurisdiction of the Appeals Panel has not been properly invoked, the decision and order of the hearing officer have become final pursuant to the provisions of Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision in this case was mailed to the claimant on January 6, 1998. The claimant states in her appeal she received one letter mailed from Austin on January 6, 1998, on January 9, 1998, and that she received another letter mailed from Austin on January 9, 1998, on January 12, 1998. Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the Appeals Panel not later than the 15th day after the date on which the decision of the hearing officer is received" The 15th day after the claimant received the decision was January 24, 1998, a Saturday, which, under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.3(a)(3) (Rule 102.3(a)(3)), extends the deadline until Monday, January 26, 1998. The claimant's appeal is dated January 23, 1998, postmarked February 4, 1998, and date stamped as received in the Commission's central office in Austin on February 6, 1998. Thus, it was not timely filed.

While we are not sure what the second letter the claimant refers to is, even if it were the decision of the hearing officer and were received by the claimant on January 12, 1998, her appeal would still be untimely.

With no timely appeal. The decision and order of the hearing officer have become final pursuant to Section 410.169.

Alan C. Ernst
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Tommy W. Lueders
Appeals Judge