

APPEAL NO. 990031

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On December 8, 1998, a hearing was held. He determined that the respondent (claimant) was entitled to supplemental income benefits for the first compensable quarter. Appellant (carrier) disputes a finding of fact that said a good faith effort to obtain employment was made and that the unemployment during the filing period for the first quarter was a direct result of the impairment; carrier questioned both the number of contacts made (which were not listed by claimant and which were not specified by the decision under review) and the time period in which they were made, citing claimant's statement that he began looking for work when his checks ran out (which carrier represents was in mid-August—the end of the filing period for the first compensable quarter). Claimant replied that the decision should be affirmed.

DECISION

Finding that the request for review was not timely filed, the decision and order of the hearing officer are final.

The decision and order of the hearing officer were distributed on December 17, 1998, by cover letter dated December 17, 1998. Attached to the Texas Workers' Compensation Commission's (Commission) copy of such cover letter and decision is a signed receipt therefor by carrier's (city 1) representative dated December 18, 1998. With Section 410.202 requiring that an appeal be filed not later than the 15th day after the decision was received, the carrier had through January 4, 1999, to file an appeal (while 15 days elapsed on January 2, 1999, Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.3(a)(3) (Rule 102.3(a)(3)) provides that when the last day of a period is on a weekend, the period is extended to the next day that is not a weekend or holiday). See *also* Rule 143.3(c) which provides that a request is presumed to be timely filed when it is mailed on or before the 15th day after date of receipt and received by the Commission not later than the 20th day.

While the appeal is dated January 4, 1999, and shows a postage meter stamp of January 4, 1999, the post office date stamp is dated January 5, 1999. The Commission in (city 1) received the appeal on January 7, 1999. We conclude that the request for appeal was filed later than January 4, 1999, and was untimely.

The timeliness of an appeal is jurisdictional and does not have to be raised by a party to be addressed on review. See Texas Workers' Compensation Commission Appeal No. 941695, decided January 27, 1995. Carrier's appeal acknowledges receipt on December 18, 1998, but asserts that it was being filed on January 4, 1999.

With no timely appeal, the decision and order of the hearing officer are final. See Sections 410.202 and 410.169.

Joe Sebesta
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge