

APPEAL NO. 990082

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 14, 1998. He determined that the appellant (claimant) did not sustain a compensable injury and that she did not have disability. Claimant appeals these determinations on sufficiency grounds. Respondent (carrier) responds that claimant's appeal is untimely and also that there is no error in the hearing officer's decision and order.

DECISION

The claimant's appeal was not timely filed. Thus, it did not invoke the jurisdiction of the Appeals Panel and the hearing officer's decision and order have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to the claimant on December 23, 1998, with a cover letter dated December 22, 1998. Claimant's request for review does not indicate when claimant received the hearing officer's decision and order. Claimant is deemed to have received the decision and order five days after the date it was mailed, or on Monday, December 28, 1998. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(h) (Rule 102.5(h)). A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and if it is received by the Commission not later than the 20th day after the date of receipt of the decision. Rule 143.3(c). In this instance, the 15th day after the deemed date of receipt was Tuesday, January 12, 1999. Claimant's request for review was both mailed and faxed to the Appeals Panel on Thursday, January 14, 1999, which was beyond the 15th day following the deemed date of receipt of the hearing officer's decision. Therefore, the appeal is untimely.

Because claimant did not timely file her request for review, the request for review did not properly invoke the Appeals Panel's jurisdiction. Accordingly, the hearing officer's decision and order became final pursuant to Section 410.169 and Rule 142.16(f).

Judy Stephens
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Elaine M. Chaney
Appeals Judge