

## APPEAL NO. 990291

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 November 10, 1998. She (hearing officer) determined that the appellant's (claimant) first certification of a date of maximum medical improvement and an impairment rating became final pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.5(e) (Rule 130.5(e)) because it was not timely disputed by the claimant. The claimant appeals this determination, expressing his disagreement with it and contending that he did timely dispute this first certification. The respondent (carrier) challenges the timeliness of the claimant's appeal and otherwise replies that the decision is correct, supported by sufficient evidence, and should be affirmed.

### DECISION

Determining that the claimant's appeal was not timely filed and that the jurisdiction of the Appeals Panel has not been properly invoked, the hearing officer's decision and order have become final pursuant to Section 410.169 and Rule 142.16(f).

Records of the Texas Workers' Compensation Commission reflect that the hearing officer's decision and order was distributed to the parties on December 31, 1998. The date claimant asserts in his appeal that he received the decision is garbled, but we interpret it at the latest to be January 8, 1999. A request for review is timely if it is mailed or delivered on or before the 15th day after the date of receipt of the hearing officer's decision and order. In this case, the 15th day after January 8, 1999, is Saturday, January 23, 1999. Because this was a Saturday, the last day for filing an appeal was extended to Monday, January 25, 1999. Rule 102.3(a)(3).

The claimant's appeal, including the certificate of service at the end of the appeal, is undated. It apparently was given by the claimant to the field office for forwarding to the Appeals Panel in (City 1). The appeal itself was telefaxed to (City 1) on February 11, 1999, but another packet of material, containing exhibits from the CCH, but no appeal, was telefaxed to (City 1) from the field office on January 29, 1999. This latter date is consistent with further inquiries of the field office which reflect that the appeal was provided the field office on January 29, 1999. We accept January 29, 1999, as the date the appeal was filed. It was thus untimely.

Accordingly, the hearing officer's decision and order became final pursuant to Section 410.169 and Rule 142. 16(f).

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Alan C. Ernst  
Appeals Judge

CONCUR:

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Joe Sebesta  
Appeals Judge

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Susan M. Kelley  
Appeals Judge