

APPEAL NO. 990336

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 January 14, 1999. The issues at the CCH were whether the appellant (claimant) sustained a compensable injury to his lower back on \_\_\_\_\_, and whether he sustained any disability as a result and, if so, for what periods. The hearing officer determined that the claimant did not sustain a compensable injury to his lower back on \_\_\_\_\_, and, therefore, did not have disability. The claimant appeals, urging, in essence, that the determinations of the hearing officer are against the great weight and preponderance of the evidence. The carrier replies that claimant's appeal is untimely and, if not, urges that the decision of the hearing officer is supported by the evidence and asks that it be affirmed.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer has become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was mailed to the claimant on January 27, 1999, with a cover letter of the same date. In his appeal, the claimant states that he received of the decision in the mail on January 29, 1999. Pursuant to Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision. In this instance, the 15th day after the date of receipt was Saturday, February 13, 1999. Under Rule 102.3(a)(3) the time period for filing a timely appeal extended to Monday, February 15, 1999. The envelope in which the claimant's appeal was sent to the Commission is postmarked February 17, 1999. Thus, the appeal was untimely, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer became final under Section 410.169.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Stark O. Sanders, Jr.  
Chief Appeals Judge

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Joe Sebesta  
Appeals Judge