

APPEAL NO. 990784

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 February 19, 1999. The issues at the CCH were whether the appellant (claimant) sustained a compensable injury on \_\_\_\_\_, and had disability resulting from the injury sustained on \_\_\_\_\_. The hearing officer determined that the claimant did not sustain a compensable injury on \_\_\_\_\_, and did not have disability. The claimant appeals, urging he did sustain an injury on \_\_\_\_\_. The respondent (carrier) urges that the claimant did not timely file an appeal, and that sufficient evidence supports the hearing officer's decision.

DECISION

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

Records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was distributed to the claimant on February 24, 1999, with a cover letter of the same date. 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 his appeal, the claimant does not state when he received the decision, so the provisions of Rule 102.5(h) are applied. Rule 102.5(h) provides that the claimant is deemed to have received the decision and order of the hearing officer five days after it was mailed. With the deemed date received being March 1, 1999, the last day to timely file an appeal was March 16, 1999, a Tuesday. The claimant's appeal was mailed on April 12, 1999, and was received by the Commission on April 14, 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.

Dorian E. Ramirez  
Appeals Judge

CONCUR:

Philip F. O'Neill  
Appeals Judge

Gary L. Kilgore  
Appeals Judge