

APPEAL NO. 990901

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 March 26, 1999. The issues at the CCH were whether the respondent (claimant) sustained a compensable injury on _____; whether the injury occurred while the claimant was in a state of intoxication from the induction of a controlled substance, thereby relieving the appellant (carrier) of liability; and whether the carrier sustained a disability from a compensable injury on _____. The hearing officer determined that the claimant did sustain a compensable injury on _____; that the injury did not occur while the claimant was in a state of intoxication; and that the claimant sustained disability from the compensable injury from July 10, 1998, to October 23, 1998. The appellant (carrier) appeals, urging the evidence is insufficient to support the hearing officer's findings and the decision should be reversed. The file contains no response from the claimant.

DECISION

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

The attorney for the carrier, in the carrier's appeal, states that the decision and order of the hearing officer was originally mailed to an incorrect address by the (City 1) Field Office, which delayed the attorney's receipt of the decision and order. However, records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was signed for by the carrier's (City 2) representative on April 2, 1999. Unless specified by rule, notices and communications to a carrier are effected by delivery to its (City 2) representative. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(b) (Rule 102.5(b)). The date a carrier's (City 2) representative receives a particular notice is the date to begin calculating time under the 1989 Act and the Commission's rules. Rule 102.5(h). An (City 2) representative's receipt of a decision and order starts the time running for appeal. Texas Workers' Compensation Commission Appeal No. 93327, decided June 3, 1993. Texas Workers' Compensation Commission Appeal No. 981428, decided July 27, 1998. Pursuant to Section 410.202 and Rule 143.3(c), an appeal, to be timely, must be filed or mailed not later than the 15th day after receipt of the hearing officer's decision. Thus, the last day to timely file an appeal would be Monday, April 19, 1999 (since April 17, 1999, fell on a Saturday). The envelope which contained the carrier's appeal bears a metered date of April 22, 1999, and the appeal's certificate of service and cover letter bear the same date.

The appeal not having been timely filed, the hearing officer's decision and order has become final under Section 410.169.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Joe Sebesta
Appeals Judge