

APPEAL NO. 991110

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 April 7, 1999. The issues at the CCH were injury and disability. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and did not have disability therefrom. The claimant appeals, contending that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be manifestly unjust. The claimant asks that the Appeals Panel reverse the hearing officer's decision and render a decision in his favor. The respondent (carrier) responds that the findings and conclusions of the hearing officer are correct and should be affirmed, contending that the claimant failed to prove a new injury and did not report the alleged injury until after he had been notified that he had failed a drug test.

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 mailed to the claimant on April 29, 1999, with a cover letter dated April 29, 1999. The claimant states in his request for review that he received the hearing officer's decision five days later, on May 4, 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. Since the claimant received the hearing officer's decision on May 4, 1999, he had fifteen days, or until May 19, 1999, to file his request for review. Although the certificate of service in the claimant's request for review recites service on the carrier on May 19, 1999, the envelope in which the claimant's request for review was mailed to the Commission is postmarked May 20, 1999, and it is therefore untimely. The decision and order of the hearing officer has become final. Section 410.169.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Judy L. Stephens  
Appeals Judge