

APPEAL NO. 991175

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 26, 1999. The issues at the CCH were: (1) whether the compensable injury of the appellant (claimant) extended to and included the left leg and left ankle fracture injury; (2) whether the claimant's compensable injury is a "producing cause of the lumbar injury after (alleged date of injury)"; and (3) whether claimant had disability. The hearing officer determined that the claimant's compensable injury did not extend to and include the left leg and left ankle fracture injury; the compensable injury is a producing cause of the lumbar injury after (alleged date of injury); and the claimant had disability from (alleged date of injury), through the date of the CCH. Claimant appeals the hearing officer's determinations regarding extent of injury on sufficiency grounds. Respondent (carrier) responds that claimant's appeal may be untimely and otherwise asserts that the Appeals Panel should affirm the decision and order.

DECISION

The claimant's appeal was not timely filed. Thus, it did not invoke the jurisdiction of the Appeals Panel and the hearing officer's decision and order have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to the claimant on May 12, 1999, with a cover letter dated that same date. Claimant's request for review indicates that he received the hearing officer's decision and order on May 13, 1999. A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and if it is received by the Commission not later than the 20th day after the date of receipt of the decision. Rule 143.3(c). In this instance, the 15th day after the stated date of receipt was Friday, May 28, 1999. In claimant's request for review, it states that it was served on the attorney for carrier on May 28, 1999. The envelope is postage meter stamped with the date May 28, 1999. However, the U.S. post office stamps on the envelope are dated May 30, 1999, and June 1, 1999. Therefore, the appeal was mailed beyond the fifteenth day following the stated date of receipt of the hearing officer's decision and the appeal is untimely.

Because claimant did not timely file his request for review, the request for review did not properly invoke the Appeals Panel's jurisdiction. Accordingly, the hearing officer's decision and order became final pursuant to Section 410.169 and Rule 142.16(f).

Judy L. Stephens
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Thomas A. Knapp
Appeals Judge