

APPEAL NO. 991261

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 May 17, 1999. The issues at the CCH were injury, timely notice, date of injury, and disability. The hearing officer determined that the respondent (claimant) sustained a compensable low back injury on _____, while in the course and scope of his employment with the appellant (self-insured or carrier, as appropriate), that the self-insured is not relieved of liability under Section 409.002 because it had actual knowledge of the injury within 30 days, and that the claimant has had disability due to his compensable injury from April 13, 1998, "to the present." The self-insured appeals, contending that the hearing officer's determinations are manifestly unjust and should be reversed. The claimant requests affirmance.

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 signed for by the self-insured's (city 1) representative on May 26, 1999. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(a) (Rule 156.1(a)), each carrier shall designate an (city 1) representative to act as agent for receiving notice from the Commission, and, under Rule 156.1(c), notice to the carrier's (city 1) representative is notice from the Commission to the carrier. Therefore, the self-insured received the decision of the hearing officer on May 26, 1999, when its (city 1) representative received it, not on May 27, 1999, as the self-insured states in its appeal.

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 the date of receipt of the hearing officer's decision. Thus, the last day to timely file an appeal would be June 10, 1999, a Thursday. The envelope which contained the self-insured's appeal shows a postage meter date of June 11, 1999; the appeal's certificate of service recites service on the claimant on June 11, 1999; and the cover letter accompanying the appeal is dated June 11, 1999. The appeal is thus untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer have become final under Section 410.169.

Alan C. Ernst
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Elaine M. Chaney
Appeals Judge