

APPEAL NO. 991527

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 June 21, 1999. The issues at the CCH were extent of injury and disability. The hearing officer determined that the compensable injury of _____, did not include an injury to the lumbar spine and that the appellant (claimant) has not had disability as a result of the compensable injury sustained on _____. The claimant appeals, contending that the hearing officer's determinations are against the great weight and preponderance of the evidence. The respondent (carrier) responds that the decision is supported by more than sufficient evidence and should be affirmed.

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 June 25, 1999, with a cover letter of the same date. As stated in the claimant's request for review, the claimant received the decision and order on June 28, 1999. Under Section 410.202, an appeal, to be timely, must be filed within 15 days of the date the decision of the hearing officer is received. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), an appeal is presumed timely if it is mailed not later than the 15th day after receipt of the decision and received by the Commission not later than 20 days after receipt of the decision. Thus, the last day on which the claimant could timely file her appeal was Tuesday, July 13, 1999. While the certificate of service reflects service by mailing to the claimant and the Commission on July 13, 1999, the United States postage stamp affixed to the envelope containing the appeal shows a date of mailing of July 14, 1999. The envelope and the appeal are both stamped as received by the Commission's Chief Clerk of Proceedings on July 19, 1999. The 20th day after the claimant's receipt of the hearing officer's decision was July 18, 1999.

The claimant's appeal was 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.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Tommy W. Lueders
Appeals Judge

Elaine M. Chaney
Appeals Judge