

## APPEAL NO. 991567

This appeal is brought 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 28, 1999. He (hearing officer) determined that the respondent (claimant) was injured in the course and scope of his employment on \_\_\_\_\_; that he reported the injury to the employer on April 15, 1999; that the claimant trivialized his injury until April 15, 1999, and had good cause for not reporting his injury to the employer until that date; that the claimant sustained a compensable injury on \_\_\_\_\_; and that he had disability beginning on April 16, 1999, and continuing through the date of the CCH. The appellant (carrier) requested review; urged that the determinations of the hearing officer are against the great weight and preponderance of the evidence; and requested that the Appeals Panel reverse those determinations and render a decision in its favor on all of the appealed determinations. The claimant responded, contended that the request for review was not timely filed, urged that the determinations of the hearing officer are supported by sufficient evidence, and requested that the decision of the hearing officer be affirmed.

### DECISION

The request for review was not timely filed, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer have become final under the provisions of Section 410.169 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.16(f) (Rule 142.16(f)).

Records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was distributed to the parties with a cover letter dated July 2, 1999. Commission records indicate that the carrier, through its (City) representative, acknowledged receipt of the decision on July 5, 1999. In its appeal, the carrier states that the decision of the hearing officer was received on July 7, 1999. We note that Rule 156.1 states that notice from the Commission to a carrier's (City) representative is notice to the carrier. Also, receipt by the party, not receipt by the attorney representing the party, controls. Texas Workers' Compensation Commission Appeal No. 941695, decided January 27, 1995. Since the decision was received on July 5, 1999, the deemed receipt date in Rule 102.5(h) does not apply. Appeal No. 941695; Texas Workers' Compensation Commission Appeal No. 952144, decided January 22, 1996. Pursuant to Section 410.202 and Rule 143.3(c), 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. In this instance, the 15th day after the date of receipt was Tuesday, July 20, 1999. The carrier's request for review is dated July 22, 1999, and was mailed and transmitted by facsimile on that day and is, therefore, untimely. Under the provisions of Section 410.169 and Rule 142.16(f), a decision of a hearing officer regarding benefits is final in the absence of a timely appeal.

The jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer have become final. Section 410.169 and Rule 142.16(f).

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Tommy W. Lueders  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Dorian E. Ramirez  
Appeals Judge