

APPEAL NO. 991650

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On July 5, 1999, a contested case hearing was held. With regard to the issues before him, the hearing officer determined that appellant (claimant) did not sustain a compensable injury on _____, that the claimed injury was not caused by claimant's wilful intent to injure herself and that claimant has not had disability.

Claimant appealed, contending that she was injured in an accident involving a "tug," that her doctor took her off work and that the hearing officer's decision, on these issues, is against the great weight and preponderance of the evidence. Claimant requests that we reverse the hearing officer's decision and render a decision in her favor. Respondent (carrier) responds, urging affirmance.

DECISION

The appeal in this case was not timely filed and the decision and order of the hearing officer are final. See Sections 410.169 and 410.202.

The hearing officer's decision is dated July 8, 1999. Claimant, in her appeal, states that she received the hearing officer's decision and order on July 12, 1999. Section 410.202 provides that an appeal must be filed with the Appeals Panel "not later than the 15th day after the date on which the decision of the hearing officer is received" In that the hearing officer's decision was received on July 12, 1999, 15 days from that date would be Tuesday, July 27, 1999, which is the statutory date by which an appeal must be filed.

Claimant's appeal is undated, although the certificate of service recites a date of July 27, 1999. The appeal was sent certified mail and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal "shall be presumed to be timely filed" if it is mailed on or before the 15th day after receipt of the hearing officer's decision and is received by the Texas Workers' Compensation Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Claimant's appeal is postmarked July 28, 1999, and, therefore, being mailed after July 27, 1999, the statutory date by which the appeal must be filed (or, pursuant to Rule 143.3(c), mailed), the appeal is untimely.

Section 410.169 states the decision of the hearing officer is final in the absence of a timely appeal. Determining that the appeal was not timely filed, as set forth above, we have no jurisdiction to review the hearing officer's decision.

Thomas A. Knapp
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Judy L. Stephens
Appeals Judge