

APPEAL NO. 991830

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 July 28, 1999. The issues at the CCH were whether the respondent's (claimant) low back condition is a result of the compensable injury sustained on _____; whether the claimant had disability resulting from the injury sustained on _____, and, if so, for what periods; and what is the claimant's average weekly wage (AWW). The hearing officer determined that the claimant's low back condition is a result of the compensable injury sustained on _____; the claimant had resulting disability from January 13, 1999, through the date of the CCH; and the claimant's AWW is \$863.57. The appellant (carrier) appealed, contending that the hearing officer failed to take into consideration the information contained in the Employer's First Report of Injury or Illness (TWCC-1) and that there is a significant discrepancy between the claimant's last paycheck and his total wages for the last two weeks as determined by the hearing officer. The appeal file contains no response from the claimant.

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 carrier's Austin representative on August 5, 1999. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(a) (Rule 156.1(a)), each carrier shall designate an Austin representative to act as agent for receiving notice from the Commission, and, under Rule 156.1(c), notice to the carrier's Austin representative is notice from the Commission to the carrier. Therefore, the carrier received the decision of the hearing officer on August 5, 1999, when its Austin representative received it, not on August 6, 1999, as the carrier 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 date for the carrier to timely file an appeal would be Friday, August 20, 1999. The carrier's appeal, dated August 23, 1999, was faxed to the Commission on August 23, 1999, and was mailed on the same date (as shown by the USPS label) and received by the Commission on August 27, 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.

Tommy W. Lueders
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Robert W. Potts
Appeals Judge