

APPEAL NO. 991863

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 21, 1999, with the record closing July 23, 1999. The issues at the CCH were injury, disability, and timely notice to the employer. The hearing officer determined that the appellant (claimant) did not sustain a compensable lumbar injury on _____; that the claimant did not sustain disability from June 24, 1998, through the date of the CCH; and that the respondent (carrier) is relieved of liability due to the claimant's failure to timely notify the employer of a work-related injury. The claimant appeals, listing a number of disagreements with various statements in the hearing officer's decision and order and asking that the Appeals Panel overturn or clarify the hearing officer's decision or, if the Appeals Panel believes that the damage is not a new injury and is from his 1991 lumbar injury, that they deem that the 1991 carrier is liable for the claimant's medical benefits. The carrier responds that the claimant did not set forth the specific issues he wants reviewed but requested that the Appeals Panel review all of the facts and substitute its judgment for that of the hearing officer. The carrier also replies to each of the objections raised by the claimant and asks that the hearing officer's decision 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 July 30, 1999, with a cover letter of the same date. Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(h) (Rule 102.5(h)), the claimant is deemed to have received the decision five days later, on Wednesday, August 4, 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 Rule 143.3(c), an appeal is presumed to be timely if it is mailed not later than the 15th day after receipt of the decision and received by the Commission not later than the 20th day after receipt of the decision. Thus, the last date on which the claimant could timely mail his appeal was Thursday, August 19, 1999. The adhesive United States Postal Service sticker attached to the envelope in which the claimant's appeal was mailed shows postage paid in (City), Texas, on August 20, 1999. The appeal is thus untimely.

The claimant's appeal being untimely, 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

Dorian E. Ramirez
Appeals Judge