

APPEAL NO. 991931

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 22, 1999, with the record closing on July 9, 1999. The issues to be heard were whether the appellant (claimant) sustained a compensable injury and whether the claimant had disability. The hearing officer stated that the file shows that the claimant was properly notified but did not appear at the hearing on June 22, 1999. The hearing officer also indicates that a 10-day letter was sent to the claimant to show good cause for failure to appear and that there was no response to the letter. Since no reply was received as of July 9, 1999, the hearing officer rendered a decision that the claimant did not sustain an injury and did not have disability. In a facsimile transmission received by the Texas Workers' Compensation Commission (Commission) on September 2, 1999, the claimant states, "I'm writing to let you know that I am appealing the decision . . ." with no indication for the basis of dispute. The respondent (carrier) asserts that the appeal is not timely filed and, further, that there is no evidence to support the claimed injury or disability.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer are final pursuant to Section 410.169.

Records of the Commission show that the hearing officer's Decision and Order were mailed to the claimant on July 20, 1999. The claimant was deemed to have received this correspondence on July 26, 1999, pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(h) (Rule 102.5(h)). A party desiring to appeal a decision of the hearing officer has 15 days from receipt to file an appeal or, in this case, August 10, 1999. Section 410.202. Allowing for 5 days mail time under Rule 143.3(c), the final day for receipt of an appeal would be August 16, 1999. The claimant's purported appeal was received by the Commission on September 2, 1999, and was thus untimely. Accordingly, the Decision and Order of the hearing officer is final.

---

Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

---

Alan C. Ernst  
Appeals Judge

---

Tommy W. Lueders  
Appeals Judge