

APPEAL NO. 000022

Following a contested case hearing held on December 2, 1999, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on _____, and that she did not have disability. Claimant has requested our review, asserting evidentiary sufficiency grounds. The file does not contain a response from the respondent (self-insured).

DECISION

A timely request for review not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410. 169.

The records of the Texas Workers' Compensation Commission (Commission) reflect that the decision of the hearing officer was distributed on December 10, 1999, under a cover letter dated December 10, 1999. Claimant states in her request for review that she received the decision on December 14, 1999. Pursuant to Section 410.202, a request for review must be filed within 15 days of receipt of the hearing officer's decision. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and is received by the Commission not later than the 20th day after receipt of the hearing officer's decision. Both requirements of Rule 143.3(c) must be met in order for a request for review to be timely filed. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994; Texas Workers' Compensation Commission Appeal No. 941225, decided October 24, 1994. The last day for claimant to have timely filed her appeal by mail was December 29, 1999, for the mailing and January 3, 2000, for the receipt. Claimant's request for review is undated but does contain a certificate of service on the self-insured stating the date of December 29, 1999. The postmark date on the envelope containing claimant's request for review is illegible. However, the Commission's date stamp on the envelope reflects receipt by the Commission on January 4, 2000, which is outside the 20-day period following claimant's receipt of the decision. Accordingly, claimant's request for review is untimely and has not invoked the jurisdiction of the Appeals Panel.

Claimant's appeal not having been timely filed, the decision and order of the hearing officer have become final. Section 410.169.

Philip F. O'Neill
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Dorian E. Ramirez
Appeals Judge