

APPEAL NO. 000056

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 October 15, 1999. The hearing officer determined that appellant (claimant) did not sustain a compensable injury and that claimant did not have disability. Claimant appeals these determinations on sufficiency grounds. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

The claimant's appeal was not timely filed. Thus, it did not invoke the jurisdiction of the Appeals Panel and the hearing officer's decision and order have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to the claimant on December 15, 1999, with a cover letter dated that same date. Claimant's request for review indicates that claimant received the hearing officer's decision and order eight days later on December 23, 1999, without explanation about why she did not receive it until that date. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), as amended effective August 29, 1999, the claimant is deemed to have received the decision and order five days after the date it was mailed, or on Monday, December 20, 1999. A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and if it is received by the Commission not later than the 20th day after the date of receipt of the decision. Rule 143.3(c). In this instance, the 15th day after the deemed date of receipt was Tuesday, January 4, 2000. Claimant's request for review is dated January 6, 2000, and was mailed to the Appeals Panel on January 7, 2000, which was beyond the fifteenth day following the deemed date of receipt of the hearing officer's decision. Therefore, the appeal is untimely.

Because claimant did not timely file the request for review, the request for review did not properly invoke the Appeals Panel's jurisdiction. Accordingly, the hearing officer's decision and order became final pursuant to Section 410.169 and Rule 142.16(f).

Judy Stephens
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Alan C. Ernst
Appeals Judge