

APPEAL NO. 000126

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 December 13, 1999. The issue at the CCH was whether the compensable injury of \_\_\_\_\_, included an injury to the cervical spine. The hearing officer determined that it did not and the appellant (claimant) has filed an appeal urging that the decision of the hearing officer is so against the great weight and preponderance of the evidence as to be manifestly unjust. No response is on file from the respondent (carrier).

DECISION

The claimant's appeal not being timely filed, the jurisdiction of the Appeals Panel has not been properly invoked and 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 hearing officer's decision was mailed to the claimant on December 28, 1999. 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. Thus, the claimant here was deemed to have received the decision and order on Monday, January 3, 2000 (January 2 being a Sunday). Rule 102.3(a)(3). The appeal to be timely had to be mailed no later than the 15th day after the date of receipt of the hearing officer's decision and order and received no later than the 20th day after the date of receipt of the decision and order. Rule 143.3(c). In this case, the appeal had to be mailed no later than January 18, 2000. The post-mark on the envelope in which the appeal was mailed to the Commission is shown as January 19, 2000, making it untimely and beyond the time limits specified by statute and rule.

Our jurisdiction not having been properly or timely invoked, the decision and order of the hearing officer became final under Section 410.169. Texas Workers' Compensation Commission Appeal No. 000056, decided February 17, 2000.

Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

Alan C. Ernst  
Appeals Judge

Tommy W. Lueders  
Appeals Judge