

APPEAL NO. 000173

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 January 4, 2000. The issue at the CCH was disability. The hearing officer determined that the respondent (claimant) had disability from June 11, 1999, through September 8, 1999. The appellant (carrier) appeals, contending that the hearing officer's determination is against the great weight and preponderance of the evidence and that the hearing officer should have allowed the carrier to present certain witnesses. The claimant responds that the hearing officer's decision and her ruling on the witnesses were correct and should 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 signed for by the carrier's (city) representative on January 12, 2000. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(a) (Rule 156.1(a)), each carrier shall designate an (city) representative to act as agent for receiving notice from the Commission, and, under Rule 156.1(c), notice to the carrier's (city) representative is notice from the Commission to the carrier. Therefore, the carrier received the decision of the hearing officer on January 12, 2000; carrier also acknowledged this date of receipt in its appeal.

Pursuant to Section 410.202 and Rule 143.3(c), an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision. Thus, the last date for the carrier to timely file an appeal would be Thursday, January 27, 2000, as the carrier also acknowledges in its appeal. While the carrier's Certificate of Service recites service on the claimant on January 27, 2000, the appeal was apparently hand delivered to the Commission and is stamped as received by the Commission's Chief Clerk of Proceedings on January 28, 2000. The appeal is thus untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer have become final under Section 410.169.

Joe Sebesta
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Tommy W. Lueders
Appeals Judge