

APPEAL NO. 000192

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 issues at the CCH were injury, date of injury, disability, and timely notice to the employer. The hearing officer determined that the respondent (claimant) did sustain a compensable repetitive trauma injury to her lumbar spine; the date of injury is _____; the appellant (carrier) is not relieved from liability because of the claimant's failure to timely notify the employer; and the claimant did have disability from July 14, 1999, through the date of the CCH resulting from the injury. The carrier appeals, challenging the hearing officer's determinations as being against the great weight and preponderance of the evidence and points out alleged discrepancies in the evidence. The claimant responds that the evidence is sufficient to support the hearing officer's determination.

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 Austin representative on January 11, 2000. While the carrier's appeal states that the carrier received the hearing officer's decision on or about January 17, 2000, under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(a) (Rule 156.1(a)), each carrier shall designate an Austin representative to act as agent for receiving notice from the Commission, and, under Rule 156.1(c), notice to the carrier's representative is notice from the Commission to the carrier. Therefore, the carrier received the decision of the hearing officer on January 11, 2000, when its Austin representative received it, not on January 17, 2000, as the carrier states in its appeal.

Pursuant to Section 410.202, an appeal must be filed within 15 days of receipt of the hearing officer's decision. 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 received by the Commission not later than the 20th day after receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. 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 the carrier to file a timely appeal would have been January 26, 2000, and the last day for the appeal to have been timely received by the Commission was January 31, 2000. While the carrier's appeal was timely mailed, the postage meter on the envelope being dated January 21, 2000, the appeal is stamped as received by the Commission's Chief Clerk of Proceedings February 1, 2000, one day after the 20-day period specified in Rule 143.3(c). The carrier's appeal is, therefore, untimely.

The carrier's appeal being untimely, the decision of the hearing officer has become final. Section 410.169.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Robert W. Potts
Appeals Judge