

APPEAL NO. 000386

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 6, 2000. The issues at the CCH were injury and disability. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and has disability as a result of that injury from August 9, 1999, through the date of the CCH. The appellant (carrier) appeals, contending that the claimant, a bus driver, was injured while moving chairs at a convention center, which, the carrier urges, was outside the course and scope of her employment. The carrier thus urges there was no injury in the course and scope of employment and no disability. The claimant responds that the injury did occur in the course and scope of her employment.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Although carrier's request for review recites that the decision of the hearing officer was received on January 31, 2000, records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was signed for by the carrier's City 1 representative on January 26, 2000. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1 (a) (Rule 156.1(a)), each carrier shall designate a City 1 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 26, 2000, when its City 1 representative signed for it.

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, February 10, 2000. The carrier's certificate of service recites service on the claimant and her attorney on February 14, 2000, and the envelope which contained the carrier's appeal bears a postage meter date of February 14, 2000, and the carrier's appeal was received by the Commission on February 18, 2000. The appeal is thus untimely, having been mailed after February 10, 2000.

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.

Thomas A. Knapp
Appeals Judge

CONCUR:

Tommy W. Lueders
Appeals Judge

Dorian E. Ramirez
Appeals Judge