

APPEAL NO. 000446

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 February 1, 2000. The issue at the CCH was whether the respondent (claimant) is entitled to reimbursement of travel expenses and, if so, in what amount. The hearing officer determined that the claimant is entitled to reimbursement of travel expenses in the amount of \$2,597.78, and is further entitled to reimbursement for meal expenses in the amount of \$86.15. The appellant (carrier) appeals, requesting that we reverse the hearing officer's decision and render a decision in its favor. The appeals file contains no response from the claimant.

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 1 representative on February 10, 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 City 1 representative is notice from the Commission to the carrier. Therefore, the carrier received the decision of the hearing officer on February 10, 2000, when its City 1 representative received it, not on February 11, 2000, as the carrier states in its appeal. Rule 102.5(d), as amended effective August 29, 1999, also provides that, unless the great weight of evidence indicates otherwise, a written communication from the Commission to a carrier is deemed to have been received the first working day after the date the written communication was placed in the carrier's City 1 representative's box as indicated by the Commission's date stamp. The cover letter with the hearing officer's decision is date stamped February 9, 2000, so that the next working day would have been February 10, 2000, the date the carrier's City 1 representative signed for the decision.

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 Friday, February 25, 2000. The carrier's appeal, with a Certificate of Service reflecting service on the claimant on February 28, 2000, was hand-delivered to the Commission and is stamped as received by the Commission's Chief Clerk of Proceedings on February 28, 2000. The appeal is thus untimely, being after February 25, 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:

Stark O. Sanders, Jr.
Chief Appeals Judge

Alan C. Ernst
Appeals Judge