

APPEAL NO. 000460

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) had disability resulting from the injury sustained on _____, and, if so, for what period. The hearing officer determined that the claimant had disability beginning on July 21, 1999, and continuing through the date of the hearing. The appellant (carrier) appeals, requesting that we reverse the hearing officer's decision and render a decision in its favor. The claimant responds, urging affirmance.

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 February 8, 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 Austin representative is notice from the Commission to the carrier. Therefore, the carrier received the decision of the hearing officer on February 8, 2000, when its Austin representative received it.

Pursuant to Section 410.202, an appeal must be filed within 15 days after 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 timely file an appeal would have been Wednesday, February 23, 2000, and the last day for the appeal to have been timely received by the Commission was Monday, February 28, 2000. The carrier's Certificate of Service indicates service on the claimant's attorney on February 23, 2000; the cover letter with the carrier's appeal is dated February 23, 2000; and the envelope which contained the carrier's appeal bears a postage meter date of February 23, 2000. However, the carrier's appeal is stamped as having been received by the Commission's Chief Clerk of Proceedings on March 1, 2000, two days after the 20-day period specified in Rule 143.3(c). The claimant's appeal is therefore untimely.

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

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. Stephens
Appeals Judge

Dorian E. Ramirez
Appeals Judge