

## APPEAL NO. 000580

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 16, 2000. The issues at the CCH were: (1) whether the first certification of maximum medical improvement (MMI) and impairment rating (IR) became final under the 90-day rule; (2) the date of MMI; and (3) the IR. The hearing officer determined that the first certification did not become final and that the MMI and IR issues are not ripe for adjudication. The appellant (carrier) appeals, requesting that we reverse the hearing officer=s decision and render a decision in its favor. Respondent (claimant) responds, urging affirmance.

### DECISION

A timely appeal was not filed in this case. Therefore, the hearing officer=s decision and order have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the carrier's Austin representative signed for the hearing officer=s decision on March 1, 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 March 1, 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. The last day for the carrier to timely file an appeal would have been Thursday, March 16, 2000. The carrier's Certificate of Service indicates service on the claimant's attorney on March 21, 2000. The cover letter with the carrier's appeal is dated March 21, 2000, and the envelope which contained the carrier's appeal appears to have been sent by a commercial shipper on that date. Carrier's appeal is stamped as having been received by the Commission's Chief Clerk of Proceedings on March 22, 2000. Therefore, carrier's appeal is untimely.

Because carrier's appeal was not filed on time, the hearing officer's decision has become final.

Judy L. Stephens  
Appeals Judge

CONCUR:

Robert W. Potts  
Appeals Judge

Tommy W. Lueders  
Appeals Judge