

APPEAL NO. 000899

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 3, 2000. With respect to the issue before him, the hearing officer determined that the respondent's (claimant) compensable injury of _____, is a producing cause of his L4-5 and L5-S1 low back injury after _____. In its appeal, the appellant (carrier) argues that that determination is against the great weight of the evidence. The appeals file does not contain a response to the carrier's appeal from the claimant.

DECISION

Determining that the carrier's appeal was not timely filed and that the jurisdiction of the Appeals Panel has not been properly invoked, the hearing officer's decision and order have become final pursuant to Section 410.169 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.16(f) (Rule 142.16(f)).

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was distributed to the parties on April 10, 2000, with a cover letter of the same date. Under Rule 156.1(a) each carrier is required to 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. Pursuant to Rule 102.5(d), amended effective August 29, 1999, unless the great weight of the evidence is to the contrary, the carrier is deemed to have received the hearing officer's decision on the first working day after the date it is placed in the carrier's Austin representative's box, or on April 11, 2000, in this instance. Commission records also reflect that the decision of the hearing officer was signed for by the carrier's Austin representative on April 11, 2000. Section 410.202 and Rule 143.3(c) provide that a request for review is timely if it is filed on or before the 15th day after the date of receipt of the hearing officer's decision. In this instance, the 15th day after the date of receipt of the hearing officer's decision was Wednesday, April 26, 2000. The carrier's appeal was sent by facsimile transmission to the Commission on Thursday, April 27, 2000, and is date-stamped as having been received by the Commission on that date, one day beyond the April 26, 2000, deadline and is, therefore, untimely.

Our jurisdiction not having been properly invoked, the hearing officer's decision and order have become final. Section 410.169; Rule 142.16(f).

Elaine M. Chaney
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Thomas A. Knapp
Appeals Judge