

APPEAL NO. 000968

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 10, 2000. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits for the fifth quarter. The appellant (carrier) appeals, urging that the claimant did not make a good faith effort to find work during his holiday break from attending a vocational rehabilitation program. The appeals file does not contain a 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 Austin representative on April 18, 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 April 18, 2000, when its Austin representative received it. Rule 102.5(d), as amended, effective August 29, 1999, 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 Austin representative's box as indicated by the Commission's date stamp.

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 Wednesday, May 3, 2000. The carrier's appeal, with a certificate of service reflecting service on the claimant on May 4, 2000, was hand-delivered to the Commission's (city) field office and is stamped as received by the Commission's Chief Clerk of Proceedings on May 4, 2000. The appeal is, thus, untimely, having been filed after May 3, 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.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge