

APPEAL NO. 000979

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 April 5, 2000. The hearing officer determined that the appellant's (claimant) impairment rating (IR) is 10%. The claimant appealed, contending that the hearing officer should have accorded presumptive weight to the designated doctor's amended report. The respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

Claimant did not file his appeal within the time period required by the rules of the Texas Workers' Compensation Commission (Commission). Therefore, the appeal did not invoke the Appeals Panel's jurisdiction. Accordingly, the hearing officer's decision and order have become final pursuant to Section 410.169.

The Commission's records show that the hearing officer's decision was mailed to the claimant on April 12, 2000, with a cover letter dated that same date. Claimant's request for review indicates that he did not receive the hearing officer's decision and order until seven days later on April 19, 2000. The appeal does not explain why he did not receive it until that date. Rule 102.5(d) (Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d)), as amended effective August 29, 1999, provides that, unless the great weight of evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed, or on Monday, April 17, 2000. A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and if it is received by the Commission not later than the 20th day after the date of receipt of the decision. Rule 143.3(c). In this instance, the 15th day after the deemed date of receipt was Tuesday, May 2, 2000. Claimant's request for review was stamped received on May 3, 2000, which was beyond the fifteenth day following the deemed date of receipt of the hearing officer's decision. Therefore, claimant's appeal is untimely.

Because claimant did not file his request for review on time, the request for review did not properly invoke the Appeals Panel's jurisdiction. The hearing officer's decision and order became final pursuant to Section 410.169 and Rule 142.16(f).

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Alan C. Ernst  
Appeals Judge

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Susan M. Kelley  
Appeals Judge