

APPEAL NO. 000989

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 11, 2000. The hearing officer determined that the respondent (claimant) sustained a compensable injury to his low back and shoulder on _____; and that he had disability beginning July 26, 1999, and continuing through January 23, 2000. The appellant (carrier) appealed, contending that there is no evidence to support the hearing officer's determinations or that they are against the great weight and preponderance of the evidence. The claimant responded, arguing that the carrier's appeal is untimely and that the hearing officer's decision is supported by the evidence. The claimant asks that the Appeals Panel determine that it has no jurisdiction, the appeal being untimely, or affirm the hearing officer's decision.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

The carrier states in its appeal that its Austin representative received the hearing officer's decision on April 20, 2000. However, 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 19, 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 19, 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 appeal to have been timely filed or mailed by the carrier was Thursday, May 4, 2000. The carrier's certificate of service reflects service on the claimant on May 5, 2000; a copy of the carrier's appeal was hand-delivered to the Commission on May 5, 2000; and a facsimile copy of the carrier's appeal was sent to the Commission on May 5, 2000. The carrier's appeal was sent to and received by the Commission one day after the 15-day period specified in Rule 143.3(c). Therefore, it is untimely.

The carrier's appeal being untimely, the decision of the hearing officer has become final. Section 410.169.

Tommy W. Lueders
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Alan C. Ernst
Appeals Judge