

APPEAL NO. 001127

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* A contested case hearing was held on March 29, 2000. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on _____, and did not have disability. The claimant appeals the hearing officer's decision. The respondent (self-insured) responds that the claimant's appeal is untimely and that the hearing officer's decision should be affirmed.

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 mailed to the claimant on April 5, 2000, under a cover letter of the same date. The claimant does not indicate when she received a copy of the hearing officer's decision. We note that the return address on the envelope which contained the claimant's appeal is the same as the address to which the hearing officer's decision was sent. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), as amended August 29, 1999, 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 in this case on April 10, 2000.

Section 410.202(a) provides that a request for appeal shall be filed not later than the 15th day after the date on which the hearing officer's decision is received. Rule 143.3(c) provides that a request for appeal is presumed to have been timely filed if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and is received by the Commission not later than the 20th day after the date the hearing officer's decision is received. The last day for the claimant's appeal to have been timely mailed was Tuesday, April 25, 2000. The envelope which contained the claimant's appeal shows a postage meter date of May 17, 2000, over three weeks after the 15-day deadline specified in Rule 143.3(c), and the claimant's appeal is stamped as received by the Commission on May 19, 2000. The claimant's appeal is therefore untimely.

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

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge