

APPEAL NO. 001128

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 19, 2000. The hearing officer determined that the respondent (claimant) sustained a compensable injury and that claimant had disability. The appellant (carrier) appeals these adverse determinations.

DECISION

The carrier did not file its request for review on time. Therefore, the hearing officer's decision is final. See Sections 410.169 and 410.202.

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 Texas Workers' Compensation Commission (Commission). Under Rule 156.1(c), notice to the carrier's Austin representative is notice from the Commission to the carrier. Records of the Commission show that the decision and order of the hearing officer was distributed on April 28, 2000, by cover letter dated that same date. The distribution to the carrier was to its Austin representative, via a designated box in the Commission's central office. See Rule 156.1(c). Attached to the Commission's copy of such letter and decision is a signed receipt therefor by carrier's Austin representative dated Monday, May 1, 2000. This was also the next working day after Friday, April 28, 2000. Because Section 410.202 provides that a request for review must be filed no later than the 15th day after the decision is received by a party, carrier had until Tuesday, May 16, 2000, to file or mail the appeal. Carrier's request for review was dated and postmarked May 17, 2000, and was received on May 19, 2000. Rule 143.3(c) provides that a request for review shall be presumed to be 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 of receipt. The request for review was untimely because it was not filed or mailed on or before May 16, 2000.

Based upon the absence of a timely appeal, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Judy L. Stephens
Appeals Judge

CONCUR:

Dorian E. Ramirez
Appeals Judge

Robert W. Potts
Appeals Judge