

APPEAL NO. 001169

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 issue at the CCH was whether the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 13th and 14th quarters. The hearing officer determined that the claimant is entitled to SIBs for the 13th and 14th quarters. The appellant (carrier) appeals, contending that the determinations of the hearing officer as to both quarters are against the great weight of the evidence and are clearly wrong and unjust. The appeal file contains no 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.

The carrier states in its appeal that it received the hearing officer's decision on May 4, 1999 (sic, should be 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 May 3, 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 May 3, 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 by the carrier was Thursday, May 18, 2000. The carrier's certificate of service reflects service on the claimant's attorney on May 19, 2000; the cover letter with the carrier's appeal is dated May 19, 2000; and the envelope which contained the carrier's appeal is both metered and postmarked on May 19, 2000, which date is one day after the 15-day period specified in Rule 143.3(c). The carrier's appeal is therefore untimely.

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

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Kathleen C. Decker
Appeals Judge