

## APPEAL NO. 001813

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 June 29, 2000. The issues at the CCH were extent of injury and entitlement to lifetime income benefits (LIBs). The hearing officer determined that the appellant's (claimant) \_\_\_\_\_, injury is not a producing cause of the claimant's back condition, bilateral hip condition, psychological problems (stress, anxiety, and depression), hypertension, congestive heart failure, and reflex sympathetic dystrophy (RSD); and that the claimant is not entitled to LIBs based on the loss of both feet. The claimant appeals, contending that he does have RSD, which has traveled to various parts of his body and has lost the use of his legs. The claimant asks that the Appeals Panel require the respondent (self-insured) to resume payment of his LIBs and pay his medical bills. The appeal file contains no response from the self-insured.

### DECISION

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

Pursuant to Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), an appeal is presumed to be timely 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 Texas Workers' Compensation Commission (Commission) not later than the 20th day after receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994; Texas Workers' Compensation Commission Appeal No. 941225, decided October 24, 1994. Records of the Commission show that the hearing officer's decision was mailed to the claimant on July 10, 2000, under a cover letter of the same date. The claimant states that he received the hearing officer's decision on July 15, 2000. Accordingly, the claimant had 15 days, or until Monday, July 31, 2000, (pursuant to Rule 102.3(a)(3) since the 15<sup>th</sup> day fell on a Sunday) to mail his request for review to the Commission. The claimant's certificate of service indicates service on the self-insured and the Commission on July 31, 2000; however, the USPS Express Mail Label 11-B attached to the express mail envelope which contained the claimant's request for review shows the date in as August 3, 2000, and part of the USPS adhesive label attached to that envelope indicates that postage was paid on August 3, 2000. The Commission received the claimant's appeal on August 7, 2000. The appeal is untimely, having been mailed three days after the 15-day deadline as extended under Rule 102.3(a)(3), and was received more than 20 days after receipt of the hearing officer's decision.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer have become final under Section 410.169.

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Kathleen C. Decker  
Appeals Judge