

APPEAL NO. 001834

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 July 5, 2000. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury to his lumbar spine on _____, and, therefore, did not have disability. The claimant appeals, expressing disagreement with these determinations. The respondent (carrier) responds that the hearing officer's determinations are supported by sufficient evidence and 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.

Pursuant to Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision. Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to the claimant on July 11, 2000, under a cover letter of the same date. The claimant states in his appeal that he received the hearing officer's decision on July 17, 2000.

Under Rule 102.5(d), as amended effective August 29, 1999, the claimant is deemed to have received the hearing officer's decision on July 16, 2000, a Sunday, five days after it was mailed. The claimant had 15 days, or until July 31, 2000, to mail his request for review to the Commission. The USPS postmark indicates that appeal was mailed on August 2, 2000. The claimant's appeal is untimely, having been mailed after the 15-day deadline. We note that, even using the date the claimant states he received the hearing officer's decision, the appeal was mailed more than 15 days after July 16, 2000.

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.

Alan C. Ernst
Appeals Judge

CONCUR:

Kathleen C. Decker
Appeals Judge

Thomas A. Knapp
Appeals Judge