

## APPEAL NO. 002029

Following a contested case hearing commenced on June 15, 2000, with the record closing on July 14, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issue by determining that the appellant (claimant herein) did not sustain a compensable injury on \_\_\_\_\_, and that the claimant did not have disability from January 25, 2000, through June 2, 2000. The claimant files a request for review arguing that these determinations were contrary to the evidence, which established the claimant suffered an injury and had disability. The respondent (carrier herein) replies that there is sufficient evidence in the record to support the decision of the hearing officer.

### 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 August 8, 2000, under a cover letter of the same date.

Under Rule 102.5(d), as amended effective 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. There is no statement by the claimant in his request for review as to the date he received the decision of the hearing officer. The claimant was deemed to have received the decision of the hearing officer on August 13, 2000, five days after it was mailed. See Texas Workers' Compensation Commission Appeal No. 001061, decided June 26, 2000.

The claimant had 15 days from August 13, 2000, or until August 28, 2000, to mail his request for review to the Commission. The claimant's request for appeal was mailed to the Commission, postmarked August 29, 2000. The appeal is untimely because it was mailed after the 15-day deadline.

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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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Kenneth A. Huchton  
Appeals Judge

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Robert W. Potts  
Appeals Judge