

APPEAL NO. 002140

Following a contested case hearing held pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issues by determining that the appellant (claimant) reached maximum medical improvement on August 27, 1999, with a 12% impairment rating, per the report of the designated doctor, and that the respondent (carrier) is entitled to reduce the claimant's impairment income benefits and supplemental income benefits, if any, by 42% based on contribution from an earlier compensable injury. The claimant appealed, asserting that the hearing officer's determinations were against the great weight of the other evidence and should be reversed. The carrier responded that the hearing officer's decision is correct 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(a)(3)), an appeal, to be timely, must be filed not later than the 15th day after the date of receipt of the hearing officer's decision. Pursuant to Rule 143.3(c) an appeal is presumed to be timely filed if mailed on or before the 15th day after receipt of the hearing officer's decision and received by the Texas Workers' Compensation Commission (Commission) or other party not later than the 20th day after the date of receipt of the hearing officer's decision. Records of the Commission show that the hearing officer's decision was mailed to the claimant on August 18, 2000, under a cover letter of the same date. The claimant acknowledges having received the hearing officer's decision on August 22, 2000. The claimant had 15 days, or until September 7, 2000, the Monday following the 15th day, September 6, 2000, which was a Sunday, to mail his request for review to the Commission. The USPS postmark indicates that appeal was mailed on September 14, 2000.

In the transmittal letter accompanying his request for review, the claimant asserts that he had good cause for failing to timely file an appeal with the Appeals Panel. However, 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. Since we have no jurisdiction to consider the claimant's appeal, there is no

jurisdiction to address the assertion of good cause.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge