

## APPEAL NO. 002367

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 September 5, 2000. The issues at the CCH were injury and timely notice to the employer. The hearing officer determined that the respondent (claimant) sustained a compensable repetitive trauma injury to both hands and wrists on \_\_\_\_\_, and that the claimant reported her injury to the employer not later than the 30th day after the injury. The appellant (self-insured) appeals, contending that the claimant does not have carpal tunnel syndrome and did not timely report her injury. The claimant responds that she met her burden of proving that she sustained a compensable injury and timely notified her employer. The claimant requests that the decision be affirmed.

### DECISION

A timely appeal not having been filed, the jurisdiction of the Appeals Panel has not been properly invoked and the decision and order of the hearing officer have become final pursuant to Section 410.169.

The self-insured indicates that it received the hearing officer's decision on September 14, 2000, which is the date that the self-insured's Austin Representative signed for the hearing officer's decision. Pursuant to Section 410.202, an appeal must be filed within 15 days after receipt of the hearing officer's decision. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (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 Texas Workers' Compensation Commission (Commission) not later than the 20th day after receipt of the hearing officer's decision. 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. The last day for the self-insured to timely file an appeal was Friday, September 29, 2000, and the last day for the appeal to have been timely received by the Commission was Wednesday, October 4, 2000. The self-insured's certificate of service indicates service on the claimant on February 29, 2000; the cover letter with the self-insured's appeal is dated September 29, 2000; and the envelope taped to the envelope which contained the self-insured's appeal bears two postage meter dates of September 29, 2000. However, that envelope (taped to the envelope which contained the appeal) has a yellow USPS label attached to it advising the Commission to "NOTIFY SENDER OF NEW ADDRESS," and part of the address faintly visible through the label is the ZIP code of the Commission's former post office address. The Commission now has a post office box in a different branch post office and the instructions on the cover letter sent with the hearing officer's decision advise the self-insured that all correspondence dealing with an appeal should be addressed to the Commission's Appeals Clerk at Post Office Box 40669, Austin, Texas 78704-0012. The self-insured's appeal and its cover letter are stamped as received by the Commission's Chief Clerk of Proceedings on October 12, 2000. The self-insured's appeal

is untimely, having been received by the Commission eight days after the 20-day deadline set by Rule 143.3(c).

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

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Kenneth A. Huchton  
Appeals Judge

CONCUR:

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Kathleen C. Decker  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge