

## APPEAL NO. 002391

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 12, 2000. The issues at the CCH were injury in course and scope and disability. The hearing officer determined that the appellant (claimant) did not sustain an injury in the course and scope of employment on \_\_\_\_\_, and has not had disability. The claimant appealed, urging that the determinations of the hearing officer are against the great weight and preponderance of the evidence and asking that the Appeals Panel reverse the hearing officer's decision and render a decision in favor of the claimant. The appeal file does not contain a response from the respondent (carrier).

### 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 September 18, 2000, under a cover letter of the same date. The claimant states in his appeal that he received the hearing officer's decision on September 20, 2000.

Rule 143.3(c) provides that a request for review is presumed to have been timely filed if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and is received by the Commission not later than the 20th day after the date the hearing officer's decision is received. The last day for the claimant's appeal to have been timely mailed is Thursday, October 5, 2000. The cover letter with the claimant's appeal is dated September 27, 2000. However, the envelope in which the appeal was mailed is postmarked October 11, 2000, and the appeal was received by the Commission's Chief Clerk of Proceedings on October 16, 2000. The claimant's appeal is untimely, having been mailed six days after the 15-day deadline set by Rule 143.3(c) and having been received after the 20-day deadline set by that rule.

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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Tommy W. Lueders  
Appeals Judge