

APPEAL NO. 002681

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 October 17, 2000. With regard to the issues before her, the hearing officer determined that the respondent (claimant) sustained a compensable repetitive trauma injury on \_\_\_\_\_, and that the claimant had disability from May 16, 2000, through the date of the CCH.

Appellant (carrier) appealed, contending that the hearing officer's decision was against the great weight of the evidence. The carrier requests that we reverse the hearing officer's decision and render a decision in its favor. The claimant responds, urging affirmance.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was receipted for by the carrier's Austin representative on October 25, 2000. The Commission's cover letter, dated that same date, gives the address to which an appeal is to be mailed as being:

APPEALS CLERK, HEARINGS  
TEXAS WORKERS' COMPENSATION COMMISSION  
POST OFFICE BOX 40669  
AUSTIN, TEXAS 78704-0012

Under Section 410.202(a), an appeal, to be timely, must be filed or mailed within 15 days of the date of 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 Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. 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 carrier to timely file an appeal would have been Friday, November 10, 2000, and the last day for the appeal to have been timely received by the Commission was Wednesday, November 15, 2000. The carrier's cover letter and certificate are both dated November 9, 2000. The envelope which contained the carrier's appeal is also post-marked November 9, 2000. However, over the address portion of the envelope is a yellow label stating "NOTIFY SENDER OF NEW ADDRESS" and giving the

Commission's correct current address. The carrier's appeal was received on November 20, 2000. The carrier's appeal is untimely, having been received by the Commission after the 20-day deadline (November 15, 2000) set by Rule 143.3(c). We speculate that the address beneath the yellow label is the Commission's old former address (Post Office Box 17848).

The carrier's appeal being untimely, the decision and order of the hearing officer have become final. Section 410.169.

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Kenneth A. Huchton  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge