

APPEAL NO. 002847

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 11, 2000. The record closed on October 25, 2000. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. In his appeal, the claimant essentially argues the those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges 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.

Pursuant to Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §143.3(c) (Rule 143.3(c)), an appeal is presumed to be timely 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. 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. Records of the Commission show that the hearing officer's decision was mailed to the claimant on November 21, 2000, under a cover letter of the same date. The claimant does not state when he received the hearing officer's decision; however, in accordance with Rule 102.5(d), he was deemed to have received it on November 26, 2000. Accordingly, the claimant had 15 days, or until Monday, December 11, 2000, to timely file his request for review with the Commission. The claimant's appeal was faxed to the Commission on Tuesday, December 12, 2000, one day after the 15-day period expired. Accordingly, it is untimely, having been sent to the Commission more than 15 days after the deemed date of receipt of the hearing officer's decision.

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.

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Judy L. Stephens
Appeals Judge