

APPEAL NO. 010022

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 October 27, 2000. The hearing officer made determinations on the issue of injury, disability, and waiver by the respondent (carrier) that were favorable to the carrier.

The appellant (claimant) has appealed, and the carrier responded.

DECISION

Because the appeal was untimely, the decision of the hearing officer has become final.

An appeal must be filed not later than 15 days after the party receives the decision from the Hearings Division of the Texas Workers' Compensation Commission (Commission). Section 410.202(a). While the carrier's attorney recites that the decision was received by "fax" on December 8, 2000, the decision was sent on November 15, 2000, to the claimant at the address he furnished to the Commission. It is the date of receipt by the party, not the party's attorney, that determines the date an appeal is due.

The decision is deemed to have been received by the claimant on November 20, 2000, and the appeal was required to be mailed not later than December 5, 2000. Because it was not filed until December 26, 2000, the decision is untimely, and the hearing officer's decision has become final.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge