

APPEAL NO. 010152

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 30, 2000, a hearing was held. The hearing officer determined that (1) the claimant was injured while in a state of intoxication, as defined in Section 401.013, from the introduction of a controlled substance, thereby relieving the carrier of liability; (2) the claimant did not have disability because the injury was not compensable; and (3) the employer did not make a bona fide offer of employment to the claimant. The appellant (claimant) appeals, contending that the hearing officer's decision is against the great weight and preponderance of the evidence. The respondent (carrier) responded, asserting that the appeal was not timely filed.

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. If the last day for timely filing an appeal is not a working day, the period is extended to include the next day that is a working day. Rule 102.3(a)(3). In his appeal, the claimant states that he received the hearing officer's decision and order on January 5, 2001. The last date for the claimant to timely file an appeal was Monday, January 22, 2001, the 15th day having fallen on the preceding Saturday. The claimant's appeal was sent by facsimile to the Texas Workers' Compensation Commission (Commission) on January 24, 2001, and is stamped as received by the Commission on that date. The appeal, therefore, is untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer has become final under Section 410.169.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Judy L. Stephens
Appeals Judge