

## APPEAL NO. 010188

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 December 19, 2000. With regard to the issues before her, the hearing officer determined that the appellant (claimant herein) did not sustain a compensable injury and did not have disability, and that the respondent (carrier herein) was relieved of liability because the claimant did not timely notify his employer of the alleged injury. The claimant filed a request for review to which the carrier replied.

### 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 mailed to the parties on January 4, 2001. The claimant states in his request for review that he received this decision on January 8, 2000.

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 claimant to timely file an appeal would have been Tuesday, January 23, 2001, and the last day for the appeal to have been timely received by the Commission was Monday, January 29, 2001.<sup>1</sup> The envelope containing the claimant's appeal is postmarked January 24, 2001. The claimant's appeal was received on January 30, 2001. The claimant's appeal is untimely, having both been mailed after the 15-day deadline and received by the Commission after the 20-day deadline set by Rule 143.3(c).

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<sup>1</sup>Since the 20th day fell on Sunday, the deadline for receipt would carry over to the next business day.

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

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge