

APPEAL NO. 010280

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 17, 2001, a hearing was held. With regard to the issues before him, the hearing officer determined that the respondent (claimant) was entitled to supplemental income benefits for the 15th quarter. The appellant (carrier) requests that the hearing officer's decision be reversed. The claimant 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.

The carrier asserts that it received the hearing officer's decision and order on February 1, 2001. However, records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was signed for by the carrier's Austin representative on January 25, 2001. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(a) (Rule 156.1(a)), each carrier shall designate an Austin representative to act as agent for receiving notice from the Commission and, under Rule 156.1(c), notice to the carrier's Austin representative is notice from the Commission to the carrier. Therefore, the carrier received the decision of the hearing officer on January 25, 2001, when its representative received it.

Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days of the date of receipt of the hearing officer's decision. 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. Fifteen days from the carrier's receipt of the hearing officer's decision would have been Friday, February 9, 2001. The carrier's cover letter, certificate of service and facsimile transmittal reflect that the appeal was mailed and faxed to the Commission on February 12, 2001. Therefore, the appeal was not mailed or faxed within the required 15 days and is untimely.

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge