

APPEAL NO. 010447

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 January 25, 2001. The hearing officer determined that the compensable injury of the appellant (claimant) is not the producing cause of claimant's sciatica and/or radiculopathy. Claimant appealed this determination on sufficiency grounds. Respondent (carrier) responded that the Appeals Panel should affirm the decision and order.

DECISION

The claimant's appeal was not timely filed. Thus, it did not invoke the jurisdiction of the Appeals Panel. Therefore, the hearing officer's decision and order have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to claimant on January 31, 2001, with a cover letter dated that same date. Claimant's request for review does not indicate when she received the hearing officer's decision and order. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5 (Rule 102.5), claimant is deemed to have received the decision and order five days after the date it was mailed, or on February 5, 2001. A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and if it is received by the Commission not later than the 20th day after the date of receipt of the decision. Rule 143.3(c). In this instance, the 15th day after the deemed date of receipt was February 20, 2001. Claimant's request for review was mailed to the Appeals Panel on March 1, 2001, which was beyond the 15th day following the deemed date of receipt of the hearing officer's decision. Therefore, the appeal is untimely. Claimant states that the appeal had been mailed to the Commission earlier, but that the post office returned it to claimant, and that claimant has no explanation for this. There is no good cause exception for the timely filing requirements for requests for review.

Because claimant did not timely file her request for review, the request for review did not properly invoke the Appeals Panel's jurisdiction. The hearing officer's decision and order became final pursuant to Section 410.169 and Rule 142.16(f).

Judy L. S. Barnes
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge