

APPEAL NO. 010466

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 18, 2001. The hearing officer held that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and therefore did not have disability as defined in the 1989 Act.

The claimant has appealed; the respondent (carrier) responds that the appeal was untimely, and that the decision is supported by the evidence.

DECISION

The appeal was not timely filed, and the decision of the hearing officer has therefore 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). Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)) provides that a communication mailed by the Commission is deemed to have been received on the fifth day after it is mailed. In this case, the decision and order of the hearing officer was mailed on February 6, 2001, and deemed received by February 11, 2001.

The appeal was required to be filed not later than February 26, 2001. (Rule 143.3(a)(3)), but was actually mailed on March 1, 2001. The appeal is therefore untimely and the decision of the hearing officer has become final.

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge