

APPEAL NO. 010530

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 February 8, 2001. The hearing officer determined that the appellant (claimant) was not injured on \_\_\_\_\_, and thus did not have disability.

The claimant appeals, arguing the credibility and weight which was assigned to the evidence. The respondent (carrier) responds that the appeal appears to be untimely filed and that the decision should, in any case, be affirmed.

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 February 14, 2001. The claimant states in her request for review that she received this decision on February 20, 2001. The Commission's cover letter under which the hearing officer's decision was mailed gives the address to which an appeal is to be mailed as being:

APPEALS CLERK, HEARINGS  
TEXAS WORKERS' COMPENSATION COMMISSION  
POST OFFICE BOX 40669  
AUSTIN, TEXAS 78704-0012

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 have timely filed an appeal would have been March 7, 2001, and the last day for the appeal to have been timely received by the Commission was Monday, March 12, 2001. The envelope containing the claimant's appeal is postmarked March 6, 2001. However, over the address portion of the envelope is a yellow label stating "NOTIFY SENDER OF NEW ADDRESS" and giving the Commission's correct current address. The claimant's appeal was received on March 14, 2001. The claimant's appeal is untimely, having been received by the Commission after the 20-day deadline

(March 12, 2001) set by Rule 143.3(c). The address to which the appeal was mailed is the Commission's former address, Post Office Box 17848, a box that was closed on September 1, 2000.

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

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge