

APPEAL NO. 010621

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 March 1, 2001, with the record closing on March 1, 2001. With respect to the issues before her in relation to the alleged _____, injury, the hearing officer determined that the respondent (claimant): did not sustain a compensable injury on _____; that he did not timely report his alleged injury, and that he did not have disability within the meaning of the 1989 Act because he did not sustain a compensable injury. With respect to the single issue before her related to the _____, compensable injury, the hearing officer determined that the claimant had disability for that injury from September 12, 2000, through March 1, 2001. In its appeal, the appellant (carrier) asserts error in the hearing officer's injury and disability determination relating to the alleged _____, injury and the disability determination related to the _____, compensable injury. In his response to the carrier's appeal, the claimant urges affirmance of the disability determination related to the _____, compensable injury.

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 March 13, 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 March 12, 2001. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(a) (Rule 156.1(a)), each carrier shall designate a representative to act as agent for receiving notice from the Commission and, under Rule 156.1(c), notice to the carrier's representative is notice from the Commission to the carrier. Therefore, the carrier received the decision of the hearing officer on March 12, 2001, when its representative received it.

Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed within 15 days of the date of receipt of the hearing officer's decision. In this case, 15 days from the date of receipt of the hearing officer's decision was Tuesday, March 27, 2001. The carrier's cover letter, certificate of service, and facsimile transmittal reflect that the appeal was mailed and faxed to the Commission on Wednesday, March 28, 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:

Robert E. Lang
Appeals Panel
Manager/Judge

Michael B. McShane
Appeals Judge