

APPEAL NO. 010643

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 14, 2001. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that the claimant had disability from October 4, 2000, through the date of the CCH; and that the appellant (carrier) was not relieved from liability under § 409.002 because the claimant had good cause for failing to timely notify the employer of the injury. The carrier asserts on appeal that these determinations are against the great weight of the evidence. The appeals file does not contain a response from the claimant.

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 received by the carrier's representative on March 13, 2001. 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. 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.

Fifteen days from the carrier's receipt of the hearing officer's decision would have been Wednesday, March 28, 2001. The carrier's cover letter, documenting that the appeal was hand-delivered to the Commission, and certificate of service are both dated March 29, 2001. The appeal was received by the Commission on March 29, 2001. Therefore, the appeal was not mailed, hand-delivered or faxed within the required 15 days.

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

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge