

APPEAL NO. 010731

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 6, 2001. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury and that she did not have disability from a compensable injury. The claimant appeals, contending that the decision is against the great weight and preponderance of the evidence. The respondent (carrier) responds urging affirmance.

DECISION

A timely appeal not having been filed by the claimant with the Texas Workers' Compensation Commission (Commission) and the jurisdiction of the Appeals Panel not having been properly invoked, the decision and order of the hearing officer have become final.

Records of the Commission reflect that the hearing officer's decision was distributed to the parties on March 15, 2001, under a cover letter of the same date. Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), unless the great weight of evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed, which, in this case, was Tuesday, March 20, 2001. Section 410.202(a) provides that a request for appeal shall be filed not later than the 15th day after the date on which the hearing officer's decision is received. Rule 143.3(c) provides that a request for appeal is presumed to have been timely filed if it is mailed on or before the 15th day after the receipt of the hearing officer's decision and is received by the Commission not later than the 20th day after the date the hearing officer's decision is received. The last day for the claimant's appeal to have been timely mailed was Wednesday, April 4, 2001. The envelope which contained the claimant's appeal bears a postal stamp date of April 5, 2001. Accordingly, the claimant's appeal was not timely filed.

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

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge