

APPEAL NO. 010971
FILED JUNE 14, 2001

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 December 29, 2000, with the record closing on January 12, 2001. The hearing officer determined that appellant (claimant) reached maximum medical improvement on September 30, 1997, with an impairment rating of 5%, as certified by the designated doctor. The hearing officer also determined that claimant did not have good cause for failure to attend the hearing. Claimant appealed these determinations on sufficiency grounds. Respondent self-insured ("carrier" herein) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

Claimant did not file her appeal within the time period required by the rules of the Texas Workers' Compensation Commission (Commission). Therefore, the appeal did not invoke the Appeals Panel's jurisdiction and the hearing officer's decision and order have become final pursuant to Section 410.169.

The Commission's records show that the hearing officer's decision was first mailed to claimant at (address 1) on Wednesday, January 24, 2001. Commission records show that this was the last address provided by claimant to the Commission as of the date the decision and order was mailed. Claimant's request for review indicates that she did not receive the hearing officer's decision and order because she had moved. However, claimant was responsible for informing the Commission of her current mailing address.

Rule 102.5(d) (Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d)), as amended effective August 29, 1999, provides that, unless the great weight of evidence indicates otherwise, a claimant is deemed to have received the hearing officer's decision five days after it was mailed, or on Monday, January 29, 2001. A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and if it is received by the Commission not later than the 20th day after the date of receipt of the decision. Rule 143.3(c). In this instance, the 15th day after the deemed date of receipt was Tuesday, February 13, 2001. Claimant's request for review was dated and mailed in April 2001. This was beyond the 15th day following the deemed date of receipt of the hearing officer's decision. Therefore, claimant's appeal is untimely.

Because claimant did not file her request for review on time, the request for review did not properly invoke the Appeals Panel's jurisdiction. The hearing officer's decision and order became final pursuant to Section 410.169 and Rule 142.16(f).

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge