

APPEAL NO. 011174
FILED JULY 9, 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 (CCH) was held on April 26, 2001. With regard to the issues before her, the hearing officer determined that the respondent (claimant herein) sustained a compensable injury on _____, and had disability from December 1, 2000, continuing through the date of the CCH. The appellant (carrier herein) filed a request for review to which the claimant replied.

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 May 8, 2001. The carrier states in its request for review that it received this decision on May 11, 2001.

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.

Pursuant to Rule 156.1, a carrier shall designate an Austin representative to act as its agent for receiving notice from the Commission, and any notice to the representative of the carrier is notice from the Commission to the carrier. See Texas Workers' Compensation Commission Appeal No. 010406, decided April 1, 2001, and Texas Workers' Compensation Commission Appeal No. 93327, decided June 3, 1993. Therefore, we count the carrier's 15-day period to mail and the 20-day period for receipt from May 8, 2001.

The last day for the carrier to timely file an appeal would have been Wednesday, May 23, 2001, and the last day for the appeal to have been timely received by the Commission was Tuesday, May 29, 2001.¹ The envelope containing the carrier's appeal

¹The time for receipt was extended by a day because May 28, 2001, was Memorial Day, a national holiday.

is postmarked May 24, 2001. The carrier's appeal was received on May 29, 2001. The carrier's appeal is untimely, having been mailed after the 15-day deadline set by Rule 143.3(c).

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

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge