

APPEAL NO. 011938
FILED OCTOBER 3, 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 July 12, 2001. The hearing officer determined that the respondent (claimant) was entitled to supplemental income benefits for the 20th quarter. The appellant (carrier) appeals the determination on legal and evidentiary grounds. The claimant urges affirmance.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Pursuant to Section 410.202(a), a written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). 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 Texas Workers' Compensation Commission (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 satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 16, 2001.

In its appeal, the carrier states that it received the hearing officer's decision and order on or about July 25, 2001. However, records of the Commission show that the decision was signed for by the carrier's Austin representative on July 24, 2001. Under Rule 156.1(c), notice to the carrier's Austin representative is notice to the carrier. Therefore, the carrier received the hearing officer's decision on July 24, 2001, when its Austin representative received it. The last date for the carrier to timely file an appeal was Tuesday, August 14, 2001. The carrier's appeal was postmarked August 15, 2001, and sent by facsimile to the Commission on that date. Therefore, the appeal is untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **FULCRUM INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JOSE MONTEMAYOR
TEXAS DEPARTMENT OF INSURANCE
333 GUADALUPE
AUSTIN, TEXAS 78714.**

Robert E. Lang
Appeals Panel
Manager/Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge