

APPEAL NO. 012006
FILED OCTOBER 2, 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 July 17, 2001. The appellant (claimant) appeals the hearing officer's determinations that she did not sustain a compensable injury and that because she did not sustain a compensable injury she did not have disability. The respondent (carrier) responds, contending that the claimant untimely filed her appeal and, alternatively, urging the factual sufficiency of the evidence.

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 17, 2001.

Records of the Commission reflect that the hearing officer's decision was mailed on July 20, 2001, and is deemed received by the claimant on July 25, 2001. Thus, the claimant had 15 days, not including Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, or until August 15, 2001 (a Wednesday), to mail the appeal and another five days, or until August 20, 2001 (a Monday), for the appeal to be received by the Commission's central office in Austin. The envelopes accompanying the claimant's appeal reflect that the claimant placed the appeal in the mail on August 21, 2001, and that the appeal was received by the Commission on August 24, 2001. Accordingly, the appeal was not mailed by the 15th working day and it is therefore 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 pursuant to Section 410.169.

The true corporate name of the insurance carrier is **ZURICH NORTH AMERICA** and the name and address of its registered agent for service of process is

**GARY SUDOL
ZURICH NORTH AMERICA
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge