

APPEAL NO. 012289
FILED NOVEMBER 13, 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 August 17, 2001. The hearing officer determined that the appellant (claimant) sustained a compensable injury on _____, but did not have resultant disability. The hearing officer further determined that the respondent (carrier) was not relieved from liability under Section 409.002 because the claimant did timely notify the employer pursuant to Section 409.001 on the day of the claimed injury.

The claimant appeals, asserting that he had disability from September 30, 2000, through December 30, 2000, as he was taken off of work by his doctor during that time because of his injury. In its response, the carrier 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.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to the claimant and the claimant's attorney on August 23, 2001, under a cover letter of the same date. The claimant, in his appeal, states that he received the hearing officer's decision on August 25, 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 date of 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. Section 410.202 was amended on June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. Since the claimant received the hearing officer's decision and order on August 25, 2001, using the amended calculation method the claimant's request for review must have been mailed, or received by the Commission, no later than September 17, 2001. The claimant's request for review was sent to the Commission by the carrier's attorney via facsimile on October 1, 2001, and received the same date. The claimant's appeal is untimely in that it was not timely filed with the Commission on or before September 17, 2001.

The claimant's request for review does recite a certificate of service to the opposing party and to the Commission on September 5, 2001, but there is no evidence that the appeal was sent to the Commission. The Commission received the carrier's response on September 25, 2001, and the Dispute Resolution Information System notes indicate that

the Commission inquired about whether an appeal had been filed with the carrier. The carrier then sent the Commission a copy of the claimant's appeal.

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

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

**GAIL L. ESTES
1525 N. IH-35E, SUITE 220
CARROLLTON, TEXAS 75006.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge