

APPEAL NO. 013055
FILED JANUARY 28, 2002

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 November 6, 2001. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) compensable injury of _____, does not include an injury to the low back; psychological problems consisting of anxiety attacks, hallucinations, and panic disorder; and post traumatic headaches; and that the claimant has not had disability resulting from the compensable injury sustained on _____. The claimant appealed. No response was received from the carrier.

DECISION

The decision and order of the hearing officer have become final under Section 410.169 because the claimant's appeal was not timely filed.

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Pursuant to Section 410.202(d), for appeals filed on or after June 17, 2001, Saturdays and Sundays and holidays listed in Section 662.003, Government Code, are not included in the computation of the time in which a request for an appeal under Subsection (a) or a response under Subsection (b) must be filed.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was mailed to the claimant on November 9, 2001. Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), unless the great weight of the evidence indicates otherwise, the Commission shall deem the received date to be five days after the date mailed. Under Rule 102.5(d), the claimant is deemed to have received the hearing officer's decision on November 14, 2001, which is also the date the claimant's attorney states in the request for appeal that he received the hearing officer's decision. Friday, December 7, 2001, was the 15th day after November 14, 2001, not including Saturdays and Sundays and holidays listed in Section 662.003 of the Government Code. The Commission received the claimant's request for appeal by facsimile transmission on December 10, 2001. We conclude that the claimant's appeal was not timely filed with the Commission.

The hearing officer's decision and order have become final under Section 410.169.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Susan M. Kelley
Appeals Judge