

APPEAL NO. 013156
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 7, 2001. With regard to the issues before him, the hearing officer concluded that the appellant (claimant herein) did not sustain a compensable injury; that the date of the alleged injury was _____; that the respondent (carrier herein) was relieved of liability because the claimant failed to timely report an injury; that the carrier was not relieved of liability because the claimant failed to timely file a claim; and that the claimant did not have disability. The claimant appealed the findings which were adverse to her, arguing that they were contrary to the evidence. The carrier responds that the decision of the hearing officer was supported by sufficient evidence.

DECISION

A timely appeal not having been filed with the Texas Workers' Compensation Commission (Commission), the decision of the hearing officer has become final.

The decision of the Commission was distributed on November 20, 2001. Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d), the claimant is deemed to have received this decision on November 25, 2001. The appeal was due in accordance with amended Section 410.202 to be filed by December 14, 2001. The reason that the appeal was not received by the Commission is explained in a letter from the claimant's attorney, showing that the appeal was originally mailed to the Commission on December 10, 2001, but was sent with insufficient postage. It was thus returned by the postal service without being filed with the Commission. The first appeal filed with the Commission was sent by facsimile transmission on December 18, 2001, and received the same day. This is untimely and by operation of Section 410.169, the hearing officer's decision has become final.

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

**TIM KELLY
675 BENING, 3RD FLOOR
HOUSTON, TEXAS 77057.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Edward Vilano
Appeals Judge