

APPEAL NO. 021271
FILED JUNE 24, 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 March 28, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that the claimant did not have disability.

The claimant appealed, asserting that he did have a compensable injury and disability. The respondent (carrier) responded, urging 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 distributed on April 2, 2002. Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), as amended August 29, 1999, unless the great weight of the evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed; in this case, deemed receipt is April 7, 2002. Rule 143.3(c) provides that an appeal is presumed to be 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 Commission not later than the 20th day after 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 Government Code in the computation of the 15-day appeal and response periods. The claimant had 15 days from April 7, 2002, or until April 26, 2002, to mail his request for review to the Commission. The claimant's appeal was sent to the Commission by mail postmarked May 16, 2002, and was received by the Commission May 21, 2002. The appeal is untimely because it was mailed after the 15-day deadline of April 26, 2002. Although the claimant recites in his request for review that he did not receive the hearing officer's decision and order until April 23, 2002, there is no indication why the claimant did not receive the decision by the deemed receipt date. In any event, even if we were to use the receipt date asserted in the request for review, the claimant's appeal would still be 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 **TRUCK INSURANCE EXCHANGE** and the name and address of its registered agent for service of process is

**FRED WERKENTHIN
JACKSON WALKER LLP
100 CONGRESS AVENUE, SUITE 1100
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge