

APPEAL NO. 022031
FILED SEPTEMBER 17, 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 June 25, 2002. The hearing officer determined that the appellant (claimant) did not sustain an injury, including a lower back and right leg injury, on _____; that the claimant did not sustain a compensable injury, including a compensable lower back and right leg injury, in the course and scope of employment with employer on _____, or any other date; and that the claimant did not sustain disability beginning on April 3, 2002, and continuing through the date of the hearing, or for any other time period because he did not sustain a compensable injury on _____, or any other date. The claimant appealed and the respondent (carrier) responded, urging affirmance.

DECISION

The claimant's appeal not having been timely filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Texas Workers' Compensation Commission (Commission) records show that the hearing officer's decision was mailed to the parties on July 10, 2002. In accordance with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), the claimant is deemed to have received the decision on July 15, 2002. Pursuant to Section 410.202 and Rule 143.3(c), an appeal is presumed to be timely 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. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994; Texas Workers' Compensation Commission Appeal No. 941225, decided October 24, 1994. Section 410.202(d) 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. Under the amended provision, 15 days from the claimant's deemed receipt of the hearing officer's decision would have been August 5, 2002, and 20 days would have been August 12, 2002. The envelope containing the claimant's appeal had an office postage meter stamp on it bearing the date August 5, 2002. However, the envelope is postmarked August 7, 2002, and was file stamped as being received by the Commission on August 9, 2002. Because the date of mailing is determined from the postmark, not from a postage meter stamp, the claimant's appeal was not timely filed, and we may not consider it.

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 **SERVICE LLOYDS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JOSEPH KELLEY-GRAY, PRESIDENT
6907 CAPITOL OF TEXAS HIGHWAY NORTH
AUSTIN, TEXAS 78755.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge