

APPEAL NO. 022298
FILED OCTOBER 18, 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 July 24, 2002. The hearing officer determined that the appellant's (claimant herein) injury did not extend to the cervical spine or right shoulder. The claimant files a request for review arguing that the hearing officer's decision was contrary to the evidence and unjust. The respondent (carrier herein) replies that the hearing officer's decision was sufficiently supported by the evidence.

DECISION

The hearing officer's decision has become final pursuant to Section 410.169, because the claimant's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), requires that an appeal, to be timely, must be filed or 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. A party who wishes to appeal the decision and order must file a request for review not later than 15 days after the date on which the decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Texas Government Code in the computation of the 15-day appeal and response periods.

Records of the Commission show that the hearing officer's decision was distributed Thursday, August 8, 2002, with a cover letter of the same date. The claimant alleged that he had received the decision on Friday, August 16, 2002. However, the claimant was deemed to have received the hearing officer's decision on Tuesday, August 13, 2002, the fifth day after it was distributed to the parties. Rule 102.5(d).

Using the deemed receipt date of August 13, 2002, the request for review in this case had to be mailed no later than Thursday, September 5, 2002. The claimant's request for review was postmarked Friday, September 6, 2002. The claimant's appeal was not postmarked within the 15-day time frame required by the rule and is therefore 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 **ST. PAUL GUARDIAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge