

APPEAL NO. 022414
FILED OCTOBER 15, 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 August 20, 2002. The hearing officer resolved the disputed issues by deciding that the appellant/cross-respondent (claimant) did not sustain a compensable injury on _____, and that the respondent/cross-appellant (self-insured) is relieved of liability for the claimant's injury of _____, because the claimant failed, without continuing good cause or other legal excuse, to timely report her injury to her employer. The claimant appealed and the self-insured filed a conditional cross-appeal.

DECISION

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

The claimant's appeal states that the decision of the hearing officer was received by the claimant on August 31, 2002. Texas Worker's Compensation Commission (Commission) records show that the hearing officer's decision was mailed to the parties on August 23, 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 August 28, 2002. Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days of the date of receipt of the hearing officer's decision. Rule 143.3(c) provides that an appeal is presumed to have been 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 Texas Workers' Compensation 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. See Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994; and Texas Workers' Compensation Commission Appeal No. 941225, decided October 24, 1994.

Currently, a party who wishes to appeal the decision and order must file a request for review not later than 15 working days after the date on which such 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 Section 662.003 of the Government Code in the computation of the 15-day appeal and response periods.

Fifteen days from the date of the claimant's deemed receipt of the hearing officer's decision was Thursday, September 19, 2002. The claimant's certificate of service is dated September 20, 2002, and the appeal is date stamped as received by the Commission field office in San Antonio on September 20, 2002, and date stamped

as received by the Commission's Chief Clerk of Proceedings on September 23, 2002. Therefore, the appeal was not mailed, hand-delivered, or faxed within the required 15 days.

The claimant's appeal being untimely, the decision and order of the hearing officer have become final. Section 410.169. Because the claimant's appeal is untimely, we need not address the carrier's conditional cross-appeal.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**MAYOR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge