

APPEAL NO. 022594
FILED DECEMBER 2, 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 September 9, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____; that the compensable injury does not extend to and include an injury to the right fingers, hand, arm, shoulder and cervical spine; and that the appellant (carrier) has waived the right to contest compensability of the claimed injury by not timely contesting the injury in accordance with Section 409.021. The carrier appeals, contesting the compensable injury determination and arguing that it timely filed the Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) contesting compensability in accordance with Section 409.021. The claimant responds, 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.

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that a request for appeal shall be presumed to be timely filed if it is: (1) mailed on or before the 15th day after the date of receipt of the hearing officer's decision; and (2) received by the Texas Workers' Compensation Commission (Commission) or other party 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. 002659, decided December 12, 2000. Pursuant to Rule 156.1(a), each carrier shall designate an Austin representative to act as agent for receiving notice from the Commission and, pursuant to Rule 156.1(c), notice to the carrier's Austin representative is notice from the Commission to the carrier.

Records of the Commission show that the carrier's Austin representative received a copy of the hearing officer's decision on September 18, 2002. The 15th day after September 18, 2002, excluding Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code (Section 410.202(d)), was Wednesday, October 9, 2002. The carrier's appeal was sent by Federal Express on October 10, 2002, and received by the Commission on October 11, 2002, and is therefore untimely.

The decision and order of the hearing officer have become final under Section 410.169.

According to the information provided by the carrier, the true corporate name of the insurance carrier is **REGENCY INSURANCE** and the name and address of its registered agent for service of process is

**REGENCY INSURANCE
P.O. BOX 2491
MISSION VIEJO, CALIFORNIA 92690.**

We note that the information provided by the carrier was an out of state post office box which is unacceptable; however the question is moot as the Appeals Panel has no jurisdiction to decide an untimely appeal.

Margaret L. Turner
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge