

APPEAL NO. 022626  
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 18, 2002. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits for the fourth, fifth and sixth quarters. The appellant (carrier) appealed on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant.

DECISION

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

The Texas Workers' Compensation Commission (Commission) records show that the hearing officer's decision was mailed to the parties on September 20, 2002. The carrier's copy of the decision was picked up by the carrier's representative on September 20, 2002, from the carrier's Austin representative's box located at the Commission's main office in Austin. The carrier's stamp provides the great weight of evidence indicating actual receipt on September 20, 2002, and the carrier does not get the benefit of the "deemed receipt" date being the next working day after the decision was placed in the box. See Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)). 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. An appeal submitted by fax is deemed to have been sent on the day it is received. Rule 102.5(f)(1). 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 carrier's actual receipt of the hearing officer's decision would have been October 11, 2002. The carrier was required to file its appeal not later than October 11, 2002, and under the rule for faxes, the appeal would have needed to be received by the Commission on October 11, 2002. The carrier's appeal is dated October 14, 2002, and was file stamped as being received by the Commission on October 14, 2002. The carrier'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 **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Veronica Lopez  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Susan M. Kelley  
Appeals Judge