

APPEAL NO. 022685  
FILED DECEMBER 9, 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 issue by deciding that the respondent's (claimant) compensable injury of \_\_\_\_\_, extends to and includes degenerative changes to the right knee. The appellant (carrier) appealed and the claimant responded.

DECISION

The hearing officer's decision has become final pursuant to Section 410.169 because a timely appeal of the hearing officer's decision was not filed.

According to the signed, date-received stamp on the Texas Workers' Compensation Commission (Commission) cover letter to the hearing officer's decision, the carrier's Austin representative received the hearing officer's decision on September 26, 2002. Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1(a) (Rule 156.1(a)), each carrier shall designate an Austin representative to act as its 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. Therefore, the carrier received the hearing office's decision on September 26, 2002. *See also* TWCC Advisory 93-11, signed November 4, 1993, which provides in part that all documents and notices that are required to be provided by the Commission to carriers will be placed in the carrier's Austin representative's box in the central office and that notice to the carrier for all purposes will be established by this notification. The Appeals Panel has held that a deemed date of receipt does not control over an earlier, signed acknowledgment of receipt. *See* Rule 102.5(d) and Texas Workers' Compensation Commission Appeal No. 012044, decided October 16, 2001.

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." Pursuant to Section 410.202(d), for appeals filed on or after June 17, 2001, Saturdays and Sundays and holidays listed in Section 662.003, Government Code, are not included in the computation of the time in which a request for an appeal under Subsection (a) or a response under Subsection (b) must be filed.

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 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.

Since the carrier received the hearing officer's decision on September 26, 2002, it had until October 17, 2002, to mail its appeal or file its appeal with the Commission, because October 17, 2002, was the 15th day after the date of the carrier's receipt of the hearing officer's decision, not including Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code. The carrier's appeal is dated October 21, 2002, and was hand-delivered to the Commission on October 21, 2002. Consequently, since the appeal was filed after October 17, 2002, it was not timely filed with the Commission and the hearing officer's decision has become final.

The hearing officer's decision and order have become final under Section 410.169.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

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

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Robert W. Potts  
Appeals Judge

CONCUR:

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Veronica Lopez  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge