

APPEAL NO. 023081
FILED JANUARY 9, 2003

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 October 22, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he had no disability. The claimant appeals and the respondent (carrier) responds, urging affirmance.

DECISION

The hearing officer's decision and order have become final under Section 410.169 because the claimant's request for appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

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, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, are not included in the computation of the time in which a request for appeal under subsection (a) or a response under subsection (b) must be filed. 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 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.

According to Commission records, the hearing officer's decision was mailed to the claimant on October 25, 2002. The claimant states in his appeal that he received the decision on October 29, 2002. Based on that date of receipt, the 15-day deadline was November 20, 2002, and the 20-day deadline was November 27, 2002. The claimant's appeal is postmarked November 18, 2002; however, the appeal was not received by the Commission until December 6, 2002, apparently because an incorrect zip code was used. The claimant satisfied the 15-day deadline but he did not satisfy the 20-day deadline. Therefore, the claimant's appeal is untimely.

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

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Roy L. Warren
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge