

APPEAL NO. 023225
FILED FEBRUARY 6, 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 November 5, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (carrier) is not relieved from liability pursuant to Section 409.002; that the appellant (claimant) was not injured in the course and scope of employment; and that the claimant did not have disability. The claimant appealed the compensable injury and disability determinations on sufficiency of the evidence grounds. The carrier responded, 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.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was distributed on November 18, 2002. Under Tex W.C. Comm'n, 28 TEX. ADMIN CODE § 102.5(d) (Rule 102.5(d)), as amended effective August 29, 1999, unless the great weight of evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed; in this case deemed receipt is November 23, 2002. Rule 143.3(c) provides that an appeal is presumed to be 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 Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. The claimant had 15 days from November 23, 2002, or until December 17, 2002, to mail her request for review to the Commission. A copy of the claimant's appeal was sent to the Commission by mail postmarked December 18, 2002, which was received on December 23, 2002. The appeal is untimely because it was mailed after the 15-day deadline.

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 INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C T CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Susan M. Kelley
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Panel
Manager/Judge

Edward Vilano
Appeals Judge