

APPEAL NO. 023260  
FILED FEBRUARY 11, 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 18, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is entitled to supplemental income benefits (SIBs) for the fourth quarter but is not entitled to SIBs for the fifth and sixth quarters. In his appeal, the claimant essentially argues that the hearing officer's determinations that he did not make a good faith effort to look for work in the qualifying periods for the fifth and sixth quarters and that he is not entitled to SIBs for the fifth and sixth quarters are against the great weight of the evidence. In its response, the respondent (carrier) urges affirmance. The carrier did not appeal the determination that the claimant is entitled to SIBs for the fourth quarter.

DECISION

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

Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(a) (Rule 102.5(a)), all notices and written communications to the claimant or claimant's representative will be mailed to the last address supplied by the claimant or representative. Rule 102.5(d) provides that the claimant is deemed to have received the decision and order of the hearing officer five days after it was mailed. The Appeals Panel has held that, where Texas Workers' Compensation Commission (Commission) records show mailing on a particular day to the address confirmed by the claimant as being correct, a mere statement that the decision was not received until a later date is not sufficient to extend the date of receipt past the deemed date of receipt. Texas Workers' Compensation Commission Appeal No. 982248, decided November 5, 1998; Texas Workers' Compensation Commission Appeal No. 990170, decided March 18, 1999. The address to which the claimant's copy of the hearing officer's decision was sent is the same address as that shown for the claimant on the sign-in sheet for the hearing. The claimant is deemed to have received the hearing officer's decision on November 26, 2002, five days after it was mailed. The claimant had 15 days, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, or until Thursday, December 19, 2002, to mail his request for review to the Commission. The claimant's appeal reflects that it was mailed to the Commission on December 20, 2002. Thus, the appeal is untimely.

The claimant's appeal being untimely, the decision of the hearing officer has become final. 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 SYSTEMS  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Roy L. Warren  
Appeals Judge