

APPEAL NO. 030016
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 18, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable occupational disease injury with a date of injury of _____, and that she did not have disability. The claimant appeals this decision. The respondent (self-insured) responds, contending that the claimant's appeal should not be considered, as it was not timely filed and, alternatively, urging affirmance of the hearing officer's decision.

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) reflect that the hearing officer's decision was mailed to the claimant on November 21, 2002. Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, of the date of receipt of the hearing officer's decision. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal is presumed to have been 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. 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.

Applying Rule 102.5(d) and Section 410.202, the claimant was deemed to have received the hearing officer's decision on November 26, 2002, and the deadline for the claimant to file an appeal was December 19, 2002. The envelope containing the claimant's appeal reflects that it was mailed on December 30, 2002, and was not received by the Commission until January 3, 2003. Because the claimant's appeal was not timely filed, the hearing officer's decision and order have become final pursuant to Section 410.169 and Rule 142.16(f).

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**TH
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Chris Cowan
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Susan M. Kelley
Appeals Judge