

APPEAL NO. 030282
FILED FEBRUARY 26, 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 6, 2002. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____; that the claimant failed to timely report his alleged injury and did not have good cause for failing to do so; and that the claimant did not have disability. The claimant appeals on a sufficiency of the evidence basis. The respondent (carrier) responds, 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.

Pursuant to Section 410.202(a), a written request for appeal must be filed within 15 days of 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 from the computation of time in which to file an appeal. Section 410.202(d). Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § Rule 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 Texas Workers' Compensation Commission (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 satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 17, 2001.

Commission records indicate that the hearing officer's decision was mailed to the claimant on November 20, 2002. The claimant in his appeal states that he received the hearing officer's decision on November 22, 2002. Applying Rule 143.3(c) the last day for the claimant to mail his appeal was December 17, 2002, and the last day for the Commission to timely receive the appeal was December 27, 2002. The claimant's appeal is postmarked December 12, 2002, but apparently from other documentation it contained an incorrect zip code and may have been routed to the Texas Workforce Commission. Although the claimant's appeal was timely mailed, because it had an incorrect address the appeal was not received by the Commission until February 6, 2003. The claimant's appeal is hence untimely because it was received after December 27, 2002.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer has 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.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge