

APPEAL NO. 030450
FILED MARCH 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 December 10, 2002. The hearing officer resolved the sole disputed issue by deciding that the appellant's (claimant) compensable injury of _____, did not extend to and include a herniated disc at C5-6. The claimant appealed on sufficiency grounds. The respondent (carrier) responded, arguing that the hearing officer should be affirmed.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer has 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 January 7, 2003. The claimant asserted that she received the decision on January 10, 2003.¹ The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), require that an appeal, to be timely, must be filed or 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. A party who wishes to appeal the decision and order must file a request for review not later than 15 days after the date on which such new decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended 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. Using the current calculation method, the request for review in this case had to be filed with or mailed to the Commission no later than Monday, February 3, 2003, and received by the Commission no later than Monday, February 10, 2003. The claimant's request for review's post-mark is indecipherable, but it was received by the Hearings Division of the Commission on February 21, 2003. In addition, the Commission received a supplement to the claimant's appeal on February 24, 2003. The claimant's appeal, and supplement, are therefore untimely.

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.

¹ We note that while the claimant alleged to have first mailed her request for review on January 28, 2003, there is no evidence to support the allegation and the Commission did not receive any request until February 21, 2003.

According to information provided by the carrier, the true corporate name of the carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the names and addresses of the two listed registered agents for service of process are

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

Terri Kay Oliver
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge