

APPEAL NO. 031898
FILED AUGUST 27, 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 June 3, 2003, with the record closing on June 16, 2003. The hearing officer decided that the appellant (claimant herein) attained maximum medical improvement on _____; that the claimant's impairment rating is 19%; that (company) was the claimant's employer for purposes of the 1989 Act; that the respondent (carrier herein) provided workers' compensation for the claimant's _____, injury; that the claimant is not entitled to supplemental income benefits (SIBs) for the second quarter; and that the claimant is not entitled to SIBs for the third quarter. The claimant files a request for review challenging the decision, and the carrier responds that the decision should be affirmed.

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 § 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 June 18, 2003. Under Rule 102.5(d), unless the great weight of the evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision 5 days after it was mailed; in this case deemed receipt is June 23, 2003. The claimant states in his request for review that he actually received the decision of the hearing officer on June 23, 2003. The appeal needed to be mailed no later than July 15, 2003, the 15th day from the date of receipt. The U.S. Postal Service date stamp on the envelope transmitting the claimant's appeal is July 16, 2003, and the certificate of service attached to the appeal states that the appeal was mailed to the carrier on July 16, 2003. Thus, the appeal is clearly untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision is final pursuant to Section 401.169.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge