

APPEAL NO. 032058
FILED SEPTEMBER 22, 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 July 1, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant), who was injured in (state), is entitled to all rights and remedies under the 1989 Act and that he had disability resulting from the compensable injury sustained on _____, from April 12 through October 6, 2002. The appellant (carrier) appealed, arguing that the hearing officer erred in finding that the claimant is entitled to all rights and remedies under the 1989 Act because the claimant made an election of remedies in favor of (state) workers' compensation benefits and arguing that the disability determination was against the great weight and preponderance of the evidence. The claimant responded, 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.

Records of the Commission show that the hearing officer's decision was signed for by the carrier's (city) representative on July 11, 2003. Using the applicable calculation method and the carrier's receipt date of July 11, 2003, the carrier's request for review must have been mailed or filed no later than Friday, August 1, 2003. The carrier's appeal is dated August 4, 2003, and was filed with the Commission's central office clerk of proceedings on August 4, 2003. The carrier's appeal does not recite when it believes the hearing officer's decision was received nor does it contain a jurisdictional paragraph to assist us in determining why the appeal was untimely. The carrier's appeal is untimely as not having been mailed or filed on or before August 1, 2003.

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.

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

**RAY WILSON
9602 CABIN CREEK DRIVE
HOUSTON, TEXAS 77064.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge