

APPEAL NO. 032806
FILED DECEMBER 11, 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 August 12, 2003. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. In his purported appeal, the claimant asserts error in each of those determinations. In its response to the claimant's appeal, the respondent (carrier) urges 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 § 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 September 4, 2003. In his purported appeal, the claimant acknowledges receipt of the hearing officer's decision on September 6, 2003. Thus, in accordance with amended Section 410.202, the appeal needed to be filed no later than September 26, 2003. In his professed appeal, the claimant states that the appeal was faxed to the Commission on September 25, 2003. However, a copy of that document does not appear in the appeal file. Indeed, the only copy of the appeal in the file was faxed by the carrier in accordance with our request that they send a copy to us after we received a response to the claimant's appeal from them and did not have a copy of an appeal. In addition, Commission records reflect that the claimant was contacted by a Commission employee to see if he could produce a copy of the fax confirmation demonstrating that the appeal was sent to the Commission, but no such documentation has been provided.

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 pursuant to Section 410.169.

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

**LEO MALO
ZURICH NORTH AMERICA
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge