

APPEAL NO. 033301  
FILED FEBRUARY 4, 2004

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 17, 2003. The hearing officer resolved the disputed issues by determining that the appellant/cross-respondent (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that she did not have disability. The claimant appealed the compensable injury and disability determinations on sufficiency of the evidence grounds. The respondent/cross-appellant (carrier) responded, urging affirmance of those determinations. The carrier filed a conditional appeal of the hearing officer's finding of fact that the claimant has been unable to obtain and retain employment at preinjury wages on April 30, 2003, and from May 3, 2003, through the present. The appeal file does not contain a response from the claimant.

DECISION

Finding that the carrier's appeal was conditioned upon the filing of a timely appeal by the claimant, and the claimant's appeal not having been timely filed, we determine that the decision and order of the hearing officer have become final pursuant to Section 410.169.

Although the carrier's appeal was timely filed, it was expressly made conditional on the filing of a timely appeal by the claimant. A request for review is timely filed if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, and if it is 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 requirements must be met for an appeal to be considered timely. Section 410.202(a) and (d); Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)). In her appeal, the claimant does not indicate the date that she received the hearing officer's decision and order. Commission records indicate that the decision and order was mailed to the parties on November 24, 2003. The claimant is deemed to have received it on November 29, 2003. See Rule 102.5(d). To be timely, the claimant's appeal must have been mailed on or before December 19, 2003. The claimant's appeal indicates that it was mailed to the Commission by certified mail on December 22, 2003, and sent by facsimile transmission to the Commission that same day. Because the claimant's appeal was neither faxed nor mailed to the Commission on or before December 19, 2003, the appeal is untimely.

The claimant's appeal being untimely, and the carrier's appeal being conditioned on a timely appeal by the claimant, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer have become final pursuant to Section 410.169.

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

**CT CORPORATION  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge