

APPEAL NO. 041602
FILED AUGUST 23, 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 May 4, 2004, with the record closing on June 1, 2004. The hearing officer decided that the compensable injury of appellant (claimant) did not extend to both legs resulting in amputations of the legs above the knees and that respondent (carrier) did not waive the right to contest the extent of the injury. Claimant appealed the adverse determinations regarding extent of injury and carrier waiver. Carrier responded, asserting that claimant's appeal was untimely or in the alternative, 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.

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that a request for appeal shall be presumed to be timely filed if it is: (1) mailed on or before the 15th day after the date of receipt of the hearing officer's decision; and (2) received by the Texas Workers' Compensation Commission (Commission) or other party not later than the 20th day after the date of receipt of the hearing officer's decision.

In his appeal, claimant stated that he received the hearing officer's Decision on Saturday, June 12, 2004. The 15th day after June 12, 2004, excluding Saturdays, Sundays and holidays listed in Section 662.003 of the Texas Government Code (Section 410.202(d)), was July 2, 2004. Claimant's appeal was sent by facsimile transmission on Tuesday, July 6, 2004, and received by the Commission that same day. The appeal is untimely.

The hearing officer's decision and order have become final under Section 410.169.

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

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

Judy L. S. Barnes
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge