

APPEAL NO. 042036
FILED OCTOBER 4, 2004

Following a contested case hearing (CCH), on July 12, 2004, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the disputed issues by determining that the appellant (claimant herein) sustained a compensable injury and had disability beginning on _____ and continuing through November 17, 2003. The claimant appeals, arguing that the hearing officer erred in finding that the claimant only had disability through November 17, 2003. The claimant contends that disability continued through the date of the CCH. The respondent (carrier herein) responds that the evidence supports the decision of the hearing officer. Neither party appeals the hearing officer's finding of a compensable injury.

DECISION

A timely request for review 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(e) (Rule 143.3(e)) 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(e) must be satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 17, 2001.

The records of the Commission reflect that the decision of the hearing officer was distributed on July 19, 2004, under a cover letter of the same date. The claimant states in his request for review that he received the decision of the hearing officer on July 22, 2004. The claimant's appeal needed to be mailed no later than August 12, 2004, the 15th day from the date of receipt, and received by the Commission by August 19, 2004, the 20th day from the date of receipt. The claimant's request for review is postmarked August 12, 2004. However, the Commission's date stamp on the appeal reflects receipt by the Commission on August 20, 2004, which is outside the 20-day period following the claimant's receipt of the decision. Accordingly, the claimant's request for review is untimely and has not invoked the jurisdiction of the Appeals Panel.

The claimant's appeal not having been timely filed, the decision and order of the hearing officer have become final. Section 410.169.

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

**RUSS POLK
14160 DALLAS PARKWAY, SUITE 700
DALLAS, TEXAS 75254.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge