

APPEAL NO. 043218  
FILED JANUARY 14, 2005

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 9, 2004. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth quarter and that the claimant is not entitled to SIBs for the sixth quarter. The claimant appealed, disputing the determinations that he is not entitled to SIBs for the fifth and sixth quarters. The respondent (carrier) responded, contending that the claimant's appeal was untimely filed, objecting to new evidence attached to the claimant's appeal; and urging affirmance of the SIBs determinations.

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 November 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 November 24, 2004. The claimant's appeal needed to be mailed no later than December 17, 2004, the 15th day from the date of receipt. The claimant's request for review was sent to the Commission by U.S. mail.

The envelope in which the appeal is transmitted bears a U.S. postage paid sticker dated December 18, 2004. Since the claimant's appeal was mailed to the Commission after December 17, 2004, it was not timely filed with the Commission.

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 **FIRST LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert W. Potts  
Appeals Judge