

APPEAL NO. 950321

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 31, 1995, a contested case hearing was held in (city), Texas, with (hearing officer) presiding as hearing officer. With respect to the issues before her, the hearing officer determined that appellant (claimant) did not sustain a compensable injury on (date of injury), that claimant did not have disability, and that claimant's average weekly wage is \$410.00. Claimant appeals arguing that the hearing officer's injury and disability determinations are against the great weight and preponderance of the evidence. Respondent's (carrier) response urges affirmance.

DECISION

Determining that claimant's appeal was not timely filed, the hearing officer's decision and order have become final.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was distributed to the parties on February 6, 1995, with a cover letter of the same date. Claimant's request for review states that he received the hearing officer's decision and order on February 8, 1995. A request for review is timely if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision, and if it is received by the Commission not later than the 20th day after the date of receipt of the decision. Tex. W. C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)). In this instance, the 15th day after the date that claimant received the hearing officer's decision was Thursday, February 23, 1995, and the 20th day after the date of receipt was Tuesday, February 28, 1995. Claimant's request for review bears a postmark date of February 22, 1995. The request for review was mailed to the Commission at the following address:

Appeals Clerk, Hearings
Texas Workers' Compensation Commission
P.O. Box 17848
Austin, Texas 75212-3435

The cover letter to the hearing officer's decision clearly states that a request for appeal should be addressed as follows:

Appeals Clerk, Hearings
Texas Workers's Compensation Commission
Post Office Box 17848
Austin, Texas 78760-7848.

Claimant's request for review was addressed to the Commission using the incorrect zip code. The request for review was not received by the Commission until March 3, 1995. Therefore, it was untimely filed, in that it was not received by the Commission on or before the 20th day after the date of receipt of the hearing officer's decision (February 28, 1995),

as is required in Rule 143.3(c). See Texas Workers' Compensation Commission Appeal No. 931172, decided January 18, 1994 (improperly addressed request for review not received by the Commission within 20-day period of Rule 143.3(c) held untimely).

Because the claimant's request for review was untimely, the jurisdiction of the Appeals Panel was not properly invoked. Pursuant to Section 410.169 and Rule 142.16(f), the decision and order of the hearing officer have become final.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Robert W. Potts
Appeals Judge