

APPEAL NO. 950392

Pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), a contested case hearing was held in (city), Texas, on December 6, 1994, (hearing officer) presiding as hearing officer. He determined that the correct designated doctor in the case was the first one selected by the Texas Workers' Compensation Commission (Commission), that the maximum medical improvement date and impairment rating were as certified by the first selected designated doctor rather than that of the erroneously selected second designated doctor. The appellant (claimant) urges that since it was a good faith error in requesting and the subsequent appointment of a second designated doctor, that the second designated doctor's report should be adopted. The respondent (carrier) argues that the appeal is untimely and should not be considered or alternatively, that the decision is supported by the evidence and should be affirmed.

DECISION

Finding that the appeal filed by the claimant is untimely and that our jurisdiction has not been properly invoked, the decision and order of the hearing officer have become final. Section 410.169.

The decision of the hearing officer was mailed to the parties on January 24, 1995. A party desiring to appeal a decision and order of a hearing officer must do so before the 15th day after the date on which the decision is received. Section 410.202. Allowing for mailing time of 5 days (Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(h) (Rule 102.5(h)) the received dated is deemed to be not later than January 29, 1995. The appeal is dated and postmarked March 14, 1995, and was received by the Commission on March 16, 1995, well beyond the 15 days provided for appeals in the statute. Accordingly, our jurisdiction has not been timely or properly invoked and the decision and order of the hearing officer are final. Texas Workers' Compensation Commission Appeal No. 93485, decided July 22, 1993; Texas Workers' Compensation Commission Appeal No. 94117, decided March 3, 1994.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Robert W. Potts
Appeals Judge