

APPEAL NO. 950422

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On February 16, 1995, a contested case hearing was held in (city), Texas, with (hearing officer) presiding as hearing officer. The sole issue was:

What is the Claimant's impairment rating [IR]?

The hearing officer determined that respondent (claimant) reached maximum medical improvement on March 22, 1994, with a 15% IR in accordance with the designated doctor's report. Appellant (carrier) appeals contending that the hearing officer's decision is based on insufficient evidence and is against the great weight and preponderance of the evidence. Carrier requests that we reverse the hearing officer's decision and render a decision in its favor. Claimant responds that the decision is supported by the evidence and requests that we affirm the decision.

DECISION

The appeal in this case was not timely filed and the decision and order of the hearing officer are final. See Sections 410.169 and 410.202.

Carrier in its appeal recites that the hearing officer's decision was received by ". . . the prior firm handling the above matter on March 8, 1995," and the filing of carrier's appeal "is within the applicable TWCC Act and Rules."

The Texas Workers' Compensation Commission (Commission) records indicate that the carrier, through its (city) representative (Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 156.1 (Rule 156.1)), hand receipted for the decision on March 7, 1995. We note that Rule 156.1 contemplates that notice to a carrier's (city) representative is notice from the Commission to the carrier.

Section 410.202 provides that an appeal shall be filed with the Appeals Panel "not later than the 15th day after the date on which the decision of the hearing officer is received. . . ." In that carrier received the hearing officer's decision on March 7, 1995, as noted above, 15 days from that date would be Wednesday, March 22, 1995. Carrier's appeal was apparently hand carried to the Commission's (city) office and was received March 23, 1995. (We note the certification of service is also dated March 23, 1995.) Consequently in that the appeal was filed beyond the statutory 15 days accorded in Section 410.202 (being after March 22, 1995), carrier's appeal is untimely.

Section 410.169 states the decision of the hearing officer is final in the absence of a timely appeal. Determining the appeal was not timely filed, as set forth above, we have no jurisdiction to review the hearing officer's decision and the hearing officer's decision and order have become final.

Thomas A. Knapp
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Joe Sebesta
Appeals Judge