

APPEAL NO. 950442

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 27, 1995, a contested case hearing was held in (city), Texas, with (hearing officer) presiding as hearing officer. With respect to the issue before him, the hearing officer determined that claimant sustained a compensable injury on (date of injury), and that he has had disability as a result of the injury from August 15, 1994, through the date of the hearing. Appellant (carrier) appealed arguing that the hearing officer's determinations are against the great weight of the evidence. No response to the appeal was received from respondent (claimant).

DECISION

Determining that the carrier's appeal was not timely filed and that the jurisdiction of the Appeals Panel has not been properly invoked, the hearing officer's decision and order have become final pursuant to Section 410.169 and Tex. W. C. Comm'n, 28 TEX. ADMIN. CODE § 142.16(f) (Rule 142.16(f)).

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was distributed to the parties on March 6, 1995, with a cover letter dated March 3, 1995. Commission records indicate that carrier, through its (city) representative, acknowledged receipt of the decision on March 6, 1995. We note that Rule 156.1 states that notice from the Commission to a carrier's (city) representative is notice from the Commission to the carrier. Also, receipt by the party, not receipt by the attorney, controls. Texas Workers' Compensation Commission Appeal No. 941695, decided January 30, 1995. Since the decision was received on March 6, 1995, the deemed received date in Rule 102.5(h) does not apply. Appeal No. 941695, *supra*. Pursuant to Section 410.202 and Rule 143.3(c) 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. In this instance, the 15th day after the date of receipt was Tuesday, March 21, 1995. Carrier's appeal was sent to the Commission by facsimile transmission on March 23, 1995, and is, therefore, untimely.

Our jurisdiction not having been properly invoked, the hearing officer's decision and order have become final. Section 410.169; Rule 142.16(f).

Tommy W. Lueders
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Joe Sebesta
Appeals Judge