

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H003775

ROGELIO BRISENO RODREGUEZ, CLAIMANT  
EMPLOYEE

ANGELO ROOFING, LLC, RESPONDENT  
EMPLOYER

TECHNOLOGY INSURNACE COMPANY, RESPONDENT  
INSURANCE CARRIER/TPA

OPINION FILED OCTOBER 13, 2022

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant appeared *pro se*.

Respondents represented by the HONORABLE WILLIAM C. FRYE,  
Attorney at Law, North Little Rock, Arkansas.

ORDER

The respondents move the Full Commission to dismiss the claimant's appeal. The Full Commission denies the respondents' motion.

An administrative law judge filed an opinion on March 29, 2022. The administrative law judge found that the claimant failed to prove he was an employee of the respondent. The administrative law judge's opinion was mailed to the parties by CERTIFIED MAIL – RETURN RECEIPT REQUESTED. However, the Commission's file does not indicate that the claimant received the administrative law judge's opinion. The administrative law judge's opinion was returned to the Commission on April

16, 2022, “RETURN TO SENDER – UNCLAIMED – UNABLE TO FORWARD.”

A Commission Legal Advisor noted on August 5, 2022, “CI – Never rec. his alj dec and wanted to know status. Let him know the decision was sent to him cert. but he never obtained it and it was returned. He said he works out of state most of the time and isn’t home very much but the address is correct. He asked me to e-mail it to him so I did. Expl. can read it if he wants to appeal it.” The claimant informed the Legal Advisor on August 8, 2022, “Yes I want to appear againt (sic) please.” A Legal Support Specialist informed the respondents’ attorney on September 22, 2022, “Claimant’s email dated August 9, 2022, has been treated as an appeal to the Full Commission. Attached find a letter pertaining to the above styled case.”

Ark. Code Ann. §11-9-711(a) provides:

- (1) A compensation order or award of an administrative law judge or a single commissioner shall be become final unless a party to the dispute shall, within thirty (30) days from the receipt by him or her of the order or award, petition in writing for a review by the full commission of the order or award.

The 30-day period for filing an appeal begins running on the date a party “receives” an administrative law judge’s opinion. *Kirkendolph v. DF&A Revenue Servs. Div.*, 2009 Ark. App. 629. Absent evidence as to when the claimant received a copy of the administrative law judge’s opinion, the

Commission has no basis under Ark. Code Ann. §11-9-711(a)(1) to find that the notice of appeal was untimely. *Id.*

In the present matter, the Commission's file indicates that the claimant did not receive the administrative law judge's opinion until August 5, 2022, the date same was forwarded to him by a Legal Advisor. The *pro se* claimant filed a notice of appeal on August 8, 2022, well within the statutory 30-day deadline. *Kirkendolph, supra.*

The Full Commission therefore denies the respondents' motion to dismiss the appeal. We direct the Clerk of the Commission to establish a briefing schedule.

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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CHRISTOPHER L. PALMER, Commissioner

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M. SCOTT WILLHITE, Commissioner