

ONEIDA JUDICIARY
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TRIAL COURT

Bonita L. Kaminski
Petitioner,

v.

CASE NO: 18-TC-020

Broadspire – A Crawford Co, and
Oneida HRD – Employee Ins,
Respondents,

ORDER

This case has come before the Oneida Trial Court, Honorable Layatalati Hill presiding.

Appearing in person: Petitioner, Bonita L. Kaminski, and Respondents Broadspire – A Crawford Co, and Oneida HRD – Employee Ins. represented by Kristin Jorgenson and Josh Cottrell.

Background

On July 18, 2018 the Petitioner filed a Worker's Compensation complaint challenging the denial of benefits. A hearing was held on August 6, 2018 to address the timeliness of the filing.

Statement of the Case

The Petitioner is seeking to overturn the decision denying her claim for medical benefits under the Oneida Worker's Compensation Law.

Issue

Did the Petitioner meet the 21-calendar day deadline for filing with the Oneida Judiciary after receipt of the letter denying her claim?

Findings of Fact

1. The court has both subject matter and personal jurisdiction over this matter.
2. Notice was given to all those entitled to notice.
3. The Petitioner was an employee of the Oneida Nation at the time she filed.
4. The first letter sent by the Respondents denying the Petitioner's claim was dated March 5, 2018 with a registered letter date of March 26, 2018. This letter was not received by the Petitioner.

5. The second letter sent by the Respondents denying the Petitioner's claim was dated April 23, 2018. This letter was not received by the Petitioner.
6. Other than the date, the letters were the same.
7. The letters were resent on June 19, 2018 by both FedEx and UPS and were received by the Petitioner on June 22, 2018.
8. The Petitioner filed with the Oneida Judiciary on July 18, 2018, twenty-six (26) calendar days after receipt of the denial letter.

Principles of Law

Chapter 203 Oneida Worker's Compensation Law

203.10-5. *Claim Petition:*

...If an employee objects to the denial of a claim or to a reduction or discontinuance of benefits, the employee may file a claim petition with the Hearing Body *within 21 days of the receipt by the employee of the reduction, denial or discontinuance (emphasis added)*.

203.10-7. *Method of Service:*

All notices, decisions, or orders provided for in this law may be served personally or by the United States mail. Time periods shall be calculated starting on the day following the beginning of the period, and *shall include weekends and holidays (emphasis added)*.

Analysis

The Oneida Worker's Compensation Law requires an employee to file with the Oneida Judiciary within twenty-one (21) calendar days of the receipt by the employee of the denial. Here, the Petitioner filed with the Oneida Judiciary twenty-six (26) calendar days after she received the denial letter. The Respondent stated the filing should be considered untimely. The Petitioner stated she did not know that weekends were included in calculating the deadline to file. The Petitioner also believes the deadline should be calculated using "business days" rather than "calendar days" because both the Court and the Respondents in this case are closed during the weekends and on holidays. However, the law is clear that time periods shall include weekends and holidays. Furthermore, the letter denying her claim states "You will need to complete the attached application and file it with the Oneida Judiciary within 21 calendar days from the date you sign for this letter." Therefore, the Respondent's denial letter, in accordance with the Worker's Compensation Law, directed that she must file with the Oneida Judiciary within twenty-one (21) calendar days from the date she received the denial letter. Because the Petitioner filed twenty-six (26) calendar days from the date she received the denial letter, her filing is untimely.

Conclusion of Law

The Petitioner did not meet the twenty-one (21) day deadline for filing a claim, based on a denial of benefits, with the Oneida Judiciary.

Order

This case is dismissed, with prejudice, for being untimely.

IT IS SO ORDERED.

By the authority vested in the Oneida Judiciary pursuant to Resolution 01-07-13-B of the General Tribal Council and Order signed on August 7, 2018.