

Oneida Tribal Judicial System

Onlayote ʔ aka Tsiʔ Shakotiyaʔ Tolé hte

Trial Court

Sherry Lauder,
Petitioner

Docket No. 07-TC-126

v.

Date: August 23, 2007

Oneida Human Resources Department, Benefits and
Crawford Insurance Co.
Respondent

Decision

This case is now before the Oneida Tribal Judicial System, Trial Court. Judicial Officers: Mary Adams, Robert Christjohn, and Leland Wigg-Ninham, presiding.

History

On July 5, 2007, Petitioner, Sherry Lauder, filed a Hearing Application disputing Respondent's decision to deny her Workers Compensation claim. A hearing was scheduled for August 9, 2007.

At the August 9, 2007 hearing, Respondent argued Petitioner had been treated with chiropractor care since October 22, 2004 for her alleged carpal tunnel. Respondent asserts Petitioner's workers compensation claim was paid. On January 23, 2005 Respondent contends Petitioner's claim was considered closed. On April 12, 2007, Respondent claims Petitioner was seen by another Doctor for bilateral carpal tunnel syndrome. Respondent argues Petitioner was referred to an orthopedic specialist, but declined the referral. Respondent points out that on June 6, 2007

an independent medical evaluation was done by Aftab Ansari, MD, Orthopedic Surgeon, who stated, "claimant's condition has no relationship whatsoever with her work activities". Respondent, based on that report, denied workers compensation claim.

Issue

Should Petitioner receive workers compensation for her claim?

Analysis

No, Respondents are not required to pay medical bills when the attending physician states this is no longer a workers compensation case. According to the Oneida Worker's Compensation Law, Section (6-1), any employee that sustains an injury that arises out of and in the course of employment will be covered under Oneida Worker's Compensation benefits.¹ The Petitioner did not convince this court her ongoing medical issues arose out of and were sustained in the course of her employment.

Findings of Fact:

Petitioner first filed a Workers Compensation claim in October 2004, for alleged carpal tunnel syndrome. On January 23, 2005 Respondent contends Petitioner's claim was considered closed. On April 12, 2007, Respondent claims Petitioner was seen by another Doctor for bilateral carpal tunnel syndrome. Respondent points out that on June 6, 2007 an independent medical evaluation was done by Aftab Ansari, MD, Orthopedic Surgeon, who stated, "claimant's condition has no relationship whatsoever with her work activities". Therefore, on July 25, 2007 Respondent based on Dr. Ansari's report and denied workers compensation claim.

Respondents provided testimony to support Petitioner's first claim has been paid by Crawford Insurance. However, the service date of August 30, 2006 has not been paid under Workers

¹ Employer's Liabilities: Exclusivity. With respect to any employee who sustains injury or death arising out of and in the course of employment with the employer, such employer shall be liable for the payment of compensation to such employee, the employee's surviving spouse or children, or personal representative, as provided in this law.

Compensation because on January 23, 2005, her Chiropractor, Thomas R. Arbour, D.C., stated, "Patient reached maximum therapeutic benefit." Respondent provided documentation that indicates on two separate doctor visits, Thomas R. Arbour, D. C. (1/23/06 and 3/15/07), states, "Patient's overall condition is resolved" "Patient has reached maximum therapeutic benefit" and "Released from care." Respondent provided documentation that indicates that on April 24, 2007, Doctor Lingren referred Petitioner for Dr. Cullen, but Petitioner declined. Respondent referred Petitioner to an independent medical examination. On June 14, 2007 the independent medical report by Aftab Ansari, M.D. Orthopedic Surgeon, indicated that "past treatment is not related to her work activities or to her employment." Therefore, based on that report Respondent denied Petitioner's claim.

Respondents relied on Dr. Ansari's report, which claims this is not related to her work activities or to her employment. The discontinuance of payments are well within the Respondent's right in accordance with the Oneida Worker's Compensation Law, Section (6-1).

Conclusions of Law:

Based on the medical reports and transcripts of the hearing, the court denies Petitioner's request for relief. Respondents have a right to deny a claim where injury does not arise out of or in the course of employment.

Decision

This case is dismissed with prejudice.

It is so ordered.