

Oneida Tribal Judicial System

Onlayote ᵓ a-ka Tsiᵓ Shakotiyaᵓ Tolé hte

TRIBAL COURT

David N. Heugel
Petitioner

Docket No: 10-TC-044

v.

Date: July 20, 2010

Oneida HRD-Benefits and
Crawford & Company,
Respondent

Decision

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Jean M. Webster, Mary Adams, and Leland Wigg-Ninham, presiding.

I Background

This case involves a denial of worker's compensation benefits due to the allergic reactions the Petitioner experienced on several occasions.

On April 29, 2010 Petitioner filed a complaint against Respondent for denying his claim for workers compensation benefits. Petitioner is asking for reimbursement of out of pocket expenses, co-pays, ambulance expense, and emergency services at St. Vincent Hospital. Respondent asserted that Petitioner failed to provide notice of the injury in a timely manner and did not provide medical documentation to support the allergic reaction or episodes are work related. A Pre-trial was scheduled for June 15, 2010.

II Issues

Did Petitioner report his illness late, causing his claim to be filed untimely?

Did Petitioner's illness stem from materials located on the job site?

Respondent requested a Motion to Dismiss.

III Analysis

Petitioner received a denial letter from Respondent on March 29, 2010, for failure to provide written notice to employer within 10 calendar days, failure to report the accident causing the injury within 48 hours, and did not provide medical documentation to support the claim was work related.

Did Petitioner report his illness late, causing his claim to be filed untimely?

At the Pre-trial hearing, Petitioner claimed on March 2, 2010 he was preparing for an afternoon physician tour, as he walked into the business office suite to look for another employee when he felt a sensation in both lungs. March 2, 2010 Petitioner filed an Injury/Medical Report Form. On March 16, 2010 Petitioner filed a second Injury/Medical Report Form due to the raw lung sensation. At this time Petitioner was referred to Bellin Occupational Health. Petitioner testified his allergic reaction began in 2006, with another episode in August 2007.

Findings of Facts

The Court record shows Petitioner filed an Injury/Medical Report Form on March 2 & 16, 2010. Along with supporting documentation, Petitioner testified his medical issue began in 2006 and again in August 2007. Petitioner failed to provide evidence to support his claim that he reported his illness in 2006 or August 2007 to his supervisor in a timely manner. The first time Petitioner reported the illness was on March 2, 2010. Petitioner did not provide any documentation to support his claim for reimbursements.

Respondent claims that in reviewing the Petitioner's medical history, the notes from St. Vincent Hospital, Prevea Clinic and interviewing the Petitioner, Petitioner admitted the

allergic reactions began in 2006 and was hospitalized on August 19, 2007.

The Respondent denied the workers compensation benefits as the Petitioner's claim does not meet the definition of the Oneida Workers Compensation definition as stated in *"Section 13.9-1 Notice of Injury. No compensation shall be due under this law unless, the employee, or another on behalf of the employee, reports the injury to the employee's supervisor, manager or the employers designated representative within 48 hours of the accident causing the injury. No compensation or medical benefits will be paid if a written notice of injury is not given to the employer within 10 calendar days of the date the employee first reports the injury."*

Did Petitioner's illness stem from materials located on the job site?

Petitioner provided documentation in which the letters indicated Petitioner's symptoms are consistent with allergic sensitization to drug dust at work.

Respondent claims there is no evidence that clearly states the allergic reactions or episodes were work related. The Court agrees.

Petitioner provided medical notes from Prevea Health dated April 6, 2010 and April 9, 2010 in which indicated the Petitioner's symptoms are consistent with allergic sensitization to drug dust and that the conditions are temporary pending confirming evidence. Petitioner also provided a memo from Dr. Alan James, Prevea dated March 29, 2010 identifying the Petitioner would be undergoing testing to determine the cause of his allergic reactions at the Oneida Community Health Center.

Respondent asserts Petitioner has not provided any proof the work environment or building is the cause of the Petitioner's medical problems. Respondent claims all the medical documents reviewed, failed to state Petitioner's medical condition is directly related to his work environment as defined in the *Worker's Compensation Law 13.3-12*

Covered Injury/Accidents. Mental or physical harm to an employee caused by accident or disease and arising out of and in the course of employment. Injury includes mental harm or emotional stress or strain without physical trauma, which arises from exposure to conditions or circumstances beyond those common to occupational and/or non-occupational life and is predominantly work related, extraordinary and unusual.

Finding of Facts

The Court is denying Petitioner's claim for Worker's Compensation benefits due to two reasons: (1) Petitioner failed to provide documentation of the items to be reimbursed; and (2) Petitioner failed to provide documentation the allergic reaction was directly related to his work environment.

Motion to Dismiss

Respondent made a motion to dismiss based on the Petitioner's untimely filing and Petitioner failed to prove the allergic reaction was work related. The Court must be convinced by the preponderance of evidence that the allergic reaction could only have been caused by at this facility alone. Petitioner provided documentation from Dr. Alan James, Prevea, showing he would be undergoing testing to determine the cause of his allergic reactions at the Oneida Community Health Center. The Court is not sure if Petitioner was tested and if the results from the test were conclusive because it was not provided.

The Court dismisses the Petitioner claim because he failed to meet the standards of the Workers Compensation Law, 13.9-1 Notice of Injury and 13.3-13. Covered Injury/Accidents.

IV Decision

The Court dismissed Petitioner's claim for workers compensation benefits. The Court grants the Respondents request for a Motion to Dismiss.