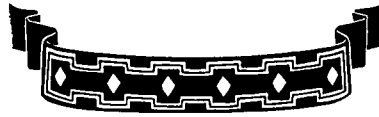


Oneida Appeals Commission

Onayote ᵑ aka Tsiᵑ Shakotiyaᵑ Tolé hte

Phone: 920-497-5800
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Post Office Box 19
Oneida, WI 54155



Pre Trial

Sharon Alvarez
Petitioner,

Docket No. 03-TC-219

v.

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

July 3, 2003

Decision

This case has come before the Oneida Appeals Commission. Judicial Officers Leland Wigg-Ninham, Mary Adams and Stanley Webster presiding.

I Background

The Petitioner, Sharon Alvarez, filed a claim with the Oneida Human Resource Benefits Department. The Respondents denied the claim on April 8, 2003 and are contending that Petitioner's injury is not work related because the original injury was on the left side of Petitioner's back and the new injury is on the right side of her back. Dr. John P. Revord, who examined Petitioner, stated that there is no correlation between the two injuries. Respondents further contend that Petitioner had a history of degenerative disk disease and back pain before she started working for the Oneida Tribe.

II Issues

Under the Oneida Nation's Worker's Compensation Law, is the Petitioner eligible for Benefits?
Is the Petitioner's injury work related?

III Analysis

The primary issue in this case is whether or not the Petitioner's injury is work related. **Oneida Worker's Compensation Law, Article III. Not Covered Injury/ Accidents, 3-13:**

No Compensation Is Allowed For: (1) Idiopathic injury, meaning an injury or condition arising from an obscure or unknown cause

Petitioner must therefore identify the specific cause of an injury, and that cause must be work related. The court asked Petitioner if she could obtain documentation from a doctor stating that her injury was work related. Petitioner answered that she could not. Respondent, however, provided documentation from Dr. Revord stating that the recent injury was unrelated to the previous injury, and provided evidence from Petitioner's primary physician, Dr. Moe, which stated that the Petitioner has a history of degenerative disk disease. The burden to prove that the injury was work related rests on the Petitioner and she was unable to satisfy this burden.

Petitioner did provide this court with documentation from Dr. Carmel J. Raihala, a chiropractor, to prove that her back injury was work related. The document was not sufficient because it failed to connect the new injury to her previous work related injury. Petitioner cannot claim that the injury arose from a new work related incident because a new claim was never filed or reported for the new injury. The primary issue being answered, the secondary issue is moot. If Petitioner cannot establish that her injury was work related, it is no longer necessary to determine whether she is eligible for benefits. Respondent made a motion to dismiss the case.

IV Decision

The request by the Respondents to dismiss this case is granted. Judgement is entered in favor of the Respondents.