

Oneida Appeals Commission

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Trial Court

Francine Frechette-Williams,
Petitioner

Docket No. 03-TC-247

v.

Human Resources Department - Benefits
Crawford Insurance,
Respondents

Date: October 8, 2003

Decision

This case has come before the Oneida Appeals Commission Trial Court. Judicial Officers Winnifred Thomas, Leland Wigg-Ninham, and Marjorie Stevens presiding.

I Background

The Petitioner, Francine M. Frechette-Williams, is seeking compensation for wages lost due to a back injury. The Petitioner claims she was experiencing pain in her leg before she arrived for work on Friday, April 25, 2003 at the Turtle School. At work, the Petitioner's supervisor asked her to help rearrange the office, which involved moving some boxes, decorations, and a desk. The Petitioner's back began to ache as the day continued, and she was experiencing extreme back pain by that night. Because her supervisor left work at 2:30 p.m. Friday afternoon, and because there was no one in the office over the weekend, the Petitioner was unable to report the injury until Monday, April 28, 2003.

The Petitioner is seeking compensation for lost wages while she was unable to work due to her injury. The Respondent denied the claim for untimeliness, and the Petitioner is seeking clarification of the period allowed for reporting work-related injuries.

A pre-trial hearing was held on July 17, 2003. The pre-trial hearing determined a trial is necessary to produce further evidence and to answer the following two issues: 1) Was the Petitioner's claim for compensation timely? 2) If the injury was reported in a timely fashion, is the Petitioner eligible for compensation?

II Issues

- 1) Was the Petitioner's claim for compensation timely?
- 2) If the injury was reported in a timely fashion, is the Petitioner eligible for compensation?

III Analysis

- 1) **Was the Petitioner's claim for compensation timely?**

In order to receive compensation for both her medical bills and lost wages while she was injured and unable to work, the Petitioner is required to report the injury within certain time limits.

According to the Oneida Worker's Compensation Law, Article IX, § 9-1:

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.

Since the Petitioner complied with the 10-day requirement, she is eligible for medical benefits. However, the Petitioner's claim for lost wages was denied by the Respondent for late reporting because she did not meet the 48-hour requirement. According to the Petitioner's testimony, she was unable to comply with the 48-hour requirement because there was no one in the office to receive her injury report during that period as it fell over the weekend. The Petitioner claims that she satisfied the requirement as nearly as she could under the circumstances by reporting the injury on the next business day.

The Petitioner did not satisfy the 48-hour requirement because she could have left a voice mail message for her supervisor, manager or designated representative and did not. Respondent, HRD - Benefits, submitted an affidavit from MIS Director, Dave Cluckey. Contained in that affidavit was sufficient evidence that the Oneida Tribe's Turtle School has voice mail capabilities which allow callers to leave date and time stamped messages at any time.

The Oneida Worker's Compensation Law, Article IX, § 9-1 states employees have **48-hours** to report the accident causing the injury to the employee's supervisor, manager or the employers designated representative, not 48-working hours or 48 business hours. Forty-eight (48) hours mean just that, 48-hours. Therefore the Petitioner is not entitled to compensation for lost wages

2) If the injury was reported in a timely fashion, is the Petitioner eligible for compensation?

The injury was not reported in a timely fashion for the Petitioner to receive lost wage compensation. Therefore, this second issue is moot.

IV Decision

The decision originally reached by the Human Resources Department - Benefits and Crawford Insurance is upheld. Petitioner is eligible to have her medical benefits paid since she complied with the 10-day requirement. The Petitioner's claim for lost wages is denied because Petitioner did not meet the 48-hour requirement.