

Oneida Appeals Commission

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Trial Court

Eugene Franco,

Petitioner

Docket No. 04-TC-101

vs.

Human Resources Department - Benefits,

Crawford and Company,

Respondents

Date: August 19, 2005

Decision

This case has come before the Oneida Appeals Commission Trial Court, Judicial Officers Mary Adams, Anita Barber, and Lois Powless, presiding.

Background

On December 23, 2004 the Petitioner, Eugene Franco, filed for a hearing against the Respondent, Human Resources Department - Benefits. Petitioner claims Respondent denied his request for Worker's Compensation benefits. Petitioner asserts his injury occurred on November 21, 2004 while at work. His Worker's Compensation claim is from November 21, 2004 to December 9, 2004, approximately three (3) weeks.

A hearing was held on February 8, 2005. On February 10, 2005, the Trial Court issued its decision and found in favor of Petitioner.

This case was remanded by the Appellate Court, Oneida HRD-Benefits and Crawford & Co. v Eugene Franco, 05-AC-004 (7/13/05) with instructions to clarify the Trial Court decision and cite the law or any findings of fact.

Findings of Fact and Conclusion of Law

According to Oneida Worker's Compensation Law, 13.3-9, the burden and standard of proof is on the Petitioner. It is this Court's decision that Petitioner met his obligation. Petitioner was treated for a knee sprain. A sprain can be the result of a sudden twist or over extending of the joint or tearing of ligaments. The MRI Examination Report dated December 1, 2004, indicated there were no signs of a "meniscal tear" but does not rule out over extending of the joint.

According to Doctor Ladika's memo, he cannot medically see the correlation of a skin infection and a knee sprain. Petitioner does not deny the fact he was diagnosed with a skin disorder. In addition, Petitioner denies any earlier injuries. Respondent's supporting documentation, i.e., a medical article explaining the skin disorder "cellulitis" can cause deep infections that are sometimes very painful. St. Mary's Hospital report dated December 22, 2004, did not mention a skin disorder, swelling or an infection, but rather claims there was no evidence of fractures or other osseous (bone) abnormalities or joint effusion (fluid). Neither document denies there was a sprain to Petitioner's left knee. Petitioner felt pain while removing gum at work. Without evidence to negate Petitioner's pain resulted from another source, this court has no other alternative but to rule in Petitioner's favor.

According to Oneida Worker's Compensation Law, 13.9-1¹, Respondent alleges Petitioner's claim must be denied based on Petitioner's injury date stated on his application filed with the Appeals Commission. The Court acknowledges Petitioner's date of injury as November 21, 2004.

Respondent denies claim based on Petitioner's medical history indicating Petitioner was diagnosed with "early cellulitis". According to the Oneida Worker's Compensation Law, 13.3.13(L)², no compensation is allowed for a pre-existing condition that was not work related.

¹ Notice of the Injury. No compensation shall be due under this law unless, the employee, or another on behalf of the employee, report the injury to the employee's supervisor, manager, or the employers designated representative within 48 hours of the accident causing the injury.

² Not Covered Injury/Accidents. No compensation is allowed for: (l), idiopathic injury, meaning an injury or condition arising from an obscure or unknown cause,

Respondent alleges the memo from St. Mary's Hospital dated November 17, 2004 indicates that Petitioner was seen at St. Mary's for skin changes to his left posterior knee along with some swelling and pain for the past four days and was diagnosed with "early cellulitis". Respondent claims Petitioner was given a prescription and an ultrasound at that visit. Respondent asserts that Petitioner's pre-existing condition is a skin infection that became irritated when he bent down on November 21, 2004 to remove gum.

Petitioner argues that on November 17, 2004 he was seen for a skin infection and not a sprain. Petitioner claims that on November 22, 2004 he was seen again at St. Mary's Hospital for pain to his left knee. Petitioner asserts that he felt his knee pop on November 30, 2004, as a result of his left knee injury occurring on November 21, 2004. Petitioner further asserts that Doctor Joseph Ladika, in a memo dated December 22, 2004, supports his claim that his knee sprain is unrelated to cellulitis, "*...a letter from the workman's comp people that states a cellulitis may have predisposed him to this which I cannot add up medically.*"

Decision

This Court's judgement remains in favor of Petitioner. The Court finds that Respondent shall pay Petitioner Worker's Compensation benefits from November 21, 2004 to December 9, 2004.