

Commonwealth Of Kentucky

Court Of Appeals

NO. 1999-CA-002695-WC

HAZARD APPALACHIAN REGIONAL HOSPITAL

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-97-02667

BRENDA STIDHAM; ROBERT L. WHITTAKER,
Director of Special Fund;
RONALD W. MAY, Administrative Law
Judge; and WORKERS' COMPENSATION
BOARD

APPELLEES

** ** * * *

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OPINION

AFFIRMING

** ** * * *

BEFORE: HUDDLESTON, KNOPF and MILLER, Judges.

HUDDLESTON, Judge: Hazard Appalachian Regional Hospital (Hazard ARH) appeals from a Workers' Compensation Board decision holding that Brenda Stidham provided sufficient notice that she suffered a heart attack and that it could be work related.

The material facts are not in dispute. Stidham served as a custodian for Hazard ARH. Her job description, according to Wade Lindon, Stidham's supervisor, included heavy lifting. On May 6, 1996, Stidham developed symptoms of a heart attack while performing strenuous labor at work. She notified Lindon that she was having chest pains and that she was going to the hospital. Eventually, Stidham's treating physicians determined that she had suffered a heart attack. Lindon visited Stidham in the hospital. However, he did not fill out an incident report because of Hazard ARH's policy not to report illnesses. Stidham underwent several operations to correct her heart condition and repair damage.

On July 13, 1998, Stidham requested that Lindon complete an incident report. Stidham then brought a claim against Hazard ARH for disability benefits. Both the arbitrator and the Administrative Law Judge determined that Stidham did not provide sufficient notice that her heart attack was related to her work as required by Kentucky Revised Statutes (KRS) 342.185(1).¹ Stidham appealed to the Board which determined that the fact that Lindon knew Stidham had a heart attack at work, coupled with his knowledge

¹ Ky. Rev. Stat. (KRS) 342.185(1) provides, in part, that:

[N]o proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening therefor

of her job requirements, provided Hazard ARH with sufficient notice that the claim could be work related. Hazard ARH and the Special Fund appeal from that decision.

The notice requirement allows the employer to investigate workers' compensation claims to reduce liability, minimize employee injury and to check the veracity of claims.² In Harland Fuel Co. v. Burkhart, Kentucky's highest court decided that while the employee must provide timely notice, as long as the employer's liability did not increase due to additional harm to the employee and the employer could still verify the claim, a failure to provide timely notice was not fatal to the claim.³ However, the Court still required notice so that the employer could protect the employee from future damage as well as investigate fraudulent claims.

Notice of the incident is sufficient if it appries the employer of a probable injury that may develop into a compensable claim.⁴ In Reliance Diecasting Co. v. Freeman, Kentucky's highest court held that since the employer knew the employee had fallen off a ladder, it was on notice of the possibility of a resulting back

² See Harlan Fuel Co. v. Burkhart, Ky., 296 S.W.2d 722 (1956); accord Smith v. Cardinal Const. Co., Ky., 13 S.W.3d 623, 627 (2000); see also Alcan Foil Prods. v. Huff, Ky., 2 S.W.3d 96, 101 n.2 (1999) ("One of the purposes of the notice requirement is to give the employer an opportunity to take measures to minimize the extent of the worker's impairment and, hence, the employer's liability").

³ Burkhart, supra, n. 2, at 723.

⁴ Reliance Diecasting Co. v. Freeman, Ky., 471 S.W.2d 311, 313 (1971).

injury.⁵ In Blue Beard Mining Co. v. Litteral,⁶ the Court reached the same result. It held that after the employee told his supervisor that a lump of coal had landed on his head, the employer had sufficient notice because "notice of a physical injury carries with it notice of all of those things which reasonably may be anticipated to result from it."⁷ Thus, by reporting the incident, the employee met the notice requirement and could make a claim when the injury was diagnosed.

Knowledge of the employee's job responsibilities places the employer on notice that the injury could be work related. In Reliance Diecasting, the employer was on notice that a back injury resulting from a fall from a ladder could be work related because the job required the employee to climb a ladder.⁸ When an injury occurs in the course of performing job requirements, the employer has adequate notice that the injury may be work related.

Stidham provided adequate notice that she suffered a work-related injury. Stidham called her supervisor about her heart problems before proceeding to the emergency room. She also kept him apprised of the situation as it developed. Lindon even visited her in the hospital. Lindon's knowledge of Stidham's duties provided notice that her injury could be work related. While not as easy as determining that a fall from a ladder could result in back injury, it was reasonable for Lindon to assume that Stidham's

⁵ Id.

⁶ Ky., 236 S.W.2d 936 (1951).

⁷ Id. at 938.

⁸ Reliance Diecasting, supra, n. 4, 312.

heart troubles could have been triggered by lifting and dragging heavy garbage cans. The notice of the injury combined with a reasonable assumption that the injury could be work related was sufficient to place Hazard ARH on notice that Stidham had a compensable claim.

Accordingly, we affirm the decision of the Workers' Compensation Board holding that Stidham did provide sufficient notice that she suffered an injury and that the injury could be work-related. This case is remanded to the Board for further proceedings.

ALL CONCUR.

BRIEF FOR APPELLANT IN NO.
1999-CA-002695-WC:

H. Brett Stonecipher
FERRERI, FOGEL & PICKLESIMER
Lexington, Kentucky

BRIEF FOR APPELLANT IN NO.
1999-CA-002699-WC:

John Burrell
DIVISION OF SPECIAL FUND
Frankfort, Kentucky

BRIEF FOR APPELLEE BRENDA
STIDHAM IN NO. 1999-CA-002695-
WC AND APPELLEE BRENDA STIDHAM
IN 1999-CA-002699-WC:

Edmond Collett
EDMOND COLLETT, P.S.C.
Hyden, Kentucky