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NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-001301-WC

DALE W. RATLIFF — APPELLANT

v.

PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-02-01091

HUSKY COAL COMPANY;
KEVIN KING, ADMINISTRATIVE
LAW JUDGE; AND KENTUCKY
WORKERS' COMPENSATION BOARD — APPELLEES

OPINION

REVERSING AND REMANDING

** ** ** ** **

BEFORE: BAKER, KNOPF AND TACKETT, JUDGES.

BAKER, JUDGE. Dale W. Ratliff petitions us to review an Opinion of the Workers' Compensation Board entered June 4, 2003. We reverse and remand.

Ratliff began working for Husky Coal Company (Husky) in 1995 and his last day of employment was in January 2002. Ratliff apparently began experiencing carpal tunnel symptoms sometime in 1996. In September 2001, Dr. Sonya Webb diagnosed

Ratliff with carpal tunnel syndrome and informed Ratliff that the condition was work-related.

Radcliff filed an Application for Resolution of Injury Claim with the Department of Workers' Claims on July 24, 2002. Husky argued that the claim should be dismissed as it was not brought within two years of "injury" as required by Kentucky Revised Statute (KRS) 342.185. Husky believed that the date of injury was some time in 1996 when Radcliff first began experiencing symptoms of carpal tunnel syndrome and when a Dr. Samuel King specifically diagnosed Radcliff as suffering from carpal tunnel syndrome. Conversely, Radcliff argued that his date of injury was in September 2001 when Dr. Webb informed him that the condition was indeed work-related. The Administrative Law Judge (ALJ) agreed with Husky and concluded that Radcliff's claim was time-barred by KRS 342.185. In so concluding, the ALJ reasoned:

> This claim boils down to the question of when Ratliff knew he had suffered a work-related injury. Ratliff argues that occurred, at the earliest, when Dr. Webb made the diagnosis of carpal tunnel syndrome and informed Ratliff that the condition was work related in September of 2001. On the other hand, Husky argues that occurred in 1996 when Ratliff began to experience symptoms and when, at least according to Dr. Templin, Dr. King made a diagnosis of bilateral carpal tunnel syndrome.
>
> Unfortunately for Ratliff, the Administrative Law Judge believes that the date of injury was sometime in 1996. In

> doing so, the Administrative Law Judge notes that, although Ratliff denied receiving a diagnosis of carpal tunnel syndrome from Dr. King, Dr. Templin's history reflects such a diagnosis. If Dr. Templin did not obtain that information from Ratliff, where did he get it? Furthermore, the Administrative law Judge notes that Ratliff testified that he began to experience symptoms while working in 1996 and that those symptoms progressively worsened. Clearly, this should have lead Ratliff to conclude that his condition was related to work activity. While the Administrative Law Judge recognizes that Ratliff is not a physician and that Ratliff is not required to self-diagnose, Ratliff has some responsibility to be aware of his physical condition.

Brief for Appellant at 6-7. Ratliff sought review of the ALJ's opinion in the Workers' Compensation Board. The Board ultimately affirmed the ALJ's opinion, thus precipitating this review.

Ratliff's sole contention of error is that the ALJ erroneously concluded that his claim was time-barred under KRS 342.185. For the reasons hereinafter enunciated, we must agree.

Under KRS 342.185, a claim for workers' compensation benefits must be filed within two years from the date of injury. See Alcan Foil Products v. Huff, Ky., 2 S.W.3d 96 (1999). As to injuries which occur gradually from a series of traumatic events or from multi-traumas, our Supreme Court has held that the date of injury under KRS 342.185 occurs when the worker knows that he has suffered an injury and he knows that the injury was work-

related. See Id; Special Fund v. Clark, Ky., 998 S.W.2d 487 (1999).

In the case at hand, the ALJ found that Ratliff had received a diagnosis of carpal tunnel syndrome in 1996 from Dr. King. The ALJ further found that Radcliff testified that he first experienced symptoms of carpal tunnel syndrome while working in 1996 and that these symptoms progressively worsened. From these facts, the ALJ found that, "[c]learly this would have led Radcliff to conclude that his condition was related to work activity."

In Hill v. Sextet Mining Corp., Ky., 65 S.W.3d 503 (2001), the Supreme Court stated that:

> [m]edical causation is a matter for the medical experts and, therefore, the claimant cannot be expected to have self-diagnosed the cause of the harmful change to his cervical spine as being a gradual injury versus a specific traumatic event. He was not required to give notice that he had sustained a work-related gradual injury to his spine until he was informed of that fact.

Id. at 507. We view Hill as adopting the rule that a claimant suffering from a gradual injury is not required to self-diagnose that injury as being work-related; rather, the work-relatedness of a gradual injury is a question for medical experts. It is undisputed that Radcliff was not informed by a medical expert that his carpal tunnel syndrome was work-related until September

2001 when Dr. Webb so informed him. Thus, we believe that the statute of limitations contained in KRS 341.185 was triggered in September 2001.

Even if Hill does not adopt such a bright line rule requiring expert opinion as to the work-relatedness of a gradual injury, we are of the opinion that the ALJ was clearly erroneous in finding that Radcliff knew that his carpal tunnel syndrome was work-related in 1996. The ALJ bases this finding upon the fact that Radcliff experienced carpal tunnel symptoms while working and that these symptoms progressively worsened. As a matter of law, we are simply unable to conclude that the mere onset of symptoms while working, and the progressive worsening of those symptoms over time is sufficient to impute knowledge that the underlying condition was work-related. Indeed, several chronic medical conditions are progressive and worsen over time. Additionally, most claimants who suffer from a gradual work-related injury experience symptoms not only at work but outside of work in their daily activities. Viewed in the light of everyday experiences, it would be clearly unreasonable and unfair to require a claimant to know that his injury is work-related simply because he experiences symptoms at work and those symptoms progressively worsen. Upon the whole, we hold that Ratliff's claim was timely filed under KRS 341.185.

For the foregoing reasons, the Opinion of the Workers' Compensation Board is reversed and this cause is remanded for proceedings consistent with this opinion.

ALL CONCUR.

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