

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F113169

JOSEPH LITZINGER, Employee	CLAIMANT
UAG/LANDERS TOYOTA, Employer	RESPONDENT
SPECIALTY RISK SERVICES, Carrier	RESPONDENT

OPINION FILED NOVEMBER 1, 2004

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by JAY TOLLEY, Attorney, Fayetteville, Arkansas.

Respondents represented by MICHAEL E. RYBURN, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

This case was submitted for review by the parties on stipulations and briefs.

On August 11, 2004, a pre-hearing conference was conducted in this claim with a hearing scheduled for September 15, 2004. The day before the scheduled hearing the parties decided to submit this claim on stipulations and briefs. The only issue for litigation at this time involves the statute of limitations.

In accordance with the parties' agreement, respondents submitted proposed stipulations of fact which were agreed to by the claimant. Those stipulations are as follows:

1. The Commission has jurisdiction of this claim.
2. The employee-employer relationship existed at all relevant times.
3. The claimant sustained a compensable injury on October 23, 2001.
4. The claim was accepted and benefits have been paid by the respondent.
5. The only issue for determination is whether the statute of limitations bars additional benefits.
6. The carrier's last payment of compensation was for a date of service of May 7,

2003. The bill was paid on June 19, 2003. See Exhibit A, list of payments made, and Exhibit B, the May 7, 2003 report of Dr. John Park.

7. The claimant filed a Form C that is dated June 3, 2004 with the Commission by letter dated June 16, 2004. See Exhibit C.

8. All other issues are held in abeyance.

Following the submission of the stipulations the parties were given an opportunity to submit briefs. Respondents submitted a brief on October 11, 2004, and claimant chose not to submit a brief.

Following my review of the stipulations, the respondents' brief, and all other matters properly before the Commission, I make the following findings of fact and conclusions of law:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties are hereby accepted as fact.
2. Claimant's claim for additional compensation benefits is barred by the statute of limitations.

ADJUDICATION

The claimant suffered a compensable injury while working for respondent on October 23, 2001. As a result of that compensable injury the respondent paid claimant some compensation benefits. On June 3, 2004, claimant filed form AR-C requesting additional compensation benefits. Respondent contends that claimant's claim is barred by the statute of limitations.

Since claimant was paid some compensation benefits by the respondent, his current claim is for additional compensation benefits. The time for filing claims for additional compensation benefits is codified at A.C.A. §11-9-702(b)(1) which states:

In cases where any compensation, including disability or medical, has been paid on account of injury, a claim for additional compensation shall be barred unless filed with the commission within one (1) year from the date of the last payment of compensation or two (2) years from the date of the injury, whichever is greater.

Here, as previously noted, claimant filed Form AR-C requesting additional benefits on June 3, 2004. This claim was filed with the Commission more than two years after claimant's date of injury on October 23, 2001. In addition, it was also more than one year after the date of last payment of compensation. The parties have stipulated that respondent last paid for medical treatment claimant received on May 7, 2003. Therefore, the filing of Form AR-C on June 3, 2004 was more than one year after that date.

Accordingly, for the foregoing reasons, I find that claimant's claim for additional compensation benefits is barred by the statute of limitations. His Form AR-C requesting additional compensation benefits was filed on June 3, 2004. This was more than two years after his date of injury on October 23, 2001, and more than one year from the date of last payment of compensation on May 7, 2003. Therefore, his claim for any additional compensation benefits is barred by the statute of limitations.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE