

INDUSTRIAL INJURY BENEFIT

No right of appeal to the Commissioner against the refusal by a chairman of a local tribunal to extend the time for appealing to the local tribunal

The claimant purported to appeal to the Commissioner from the refusal by the chairman of the local tribunal to extend the time for appealing to the local tribunal against decisions of the insurance officer under the National Insurance (Industrial Injuries) Act 1965 and the National Insurance Act 1965.

Held, following Decision R(I) 44/59, that there is no right of appeal direct from a decision of an insurance officer to the Commissioner, nor is there a right of appeal to the Commissioner from a refusal by a chairman of the local tribunal to extend the time for appealing to the local tribunal. The purported appeal to the Commissioner was therefore a nullity.

1. My decision is that I have no jurisdiction to entertain the claimant's purported appeal and that it is a nullity.
2. On 29th September 1969 the insurance officer gave two decisions on review the one requiring repayment of a sum for injury benefit in respect of one period and the other requiring repayment of a sum for sickness benefit for a later period. The claimant did not appeal against either decision within twenty-one days.
3. On 11th August 1970 the claimant's solicitors applied by letter to the chairman of the local tribunal for an extension of time for appealing against the insurance officer's decisions. Later the solicitors withdrew that application. On 18th November 1970, however, they renewed the application, but on 1st December 1970 the chairman refused the application for extension of time for appealing to the local tribunal.
4. The claimant has now signed and submitted on form LT 43 what purports to be an appeal to the Commissioner against the decision of the local tribunal, particulars of which are stated to be "Decision of Insurance Officers of 29th Sept 1969". The insurance officer has, however, taken the preliminary point that the Commissioner has no jurisdiction to entertain these proceedings, which are a nullity. The solicitor's observations in reply add nothing to the matter.
5. In my judgment the insurance officer's contention is clearly correct. The right of appeal to a Commissioner is purely a creature of statute. Injury benefit is of course a benefit under the National Insurance (Industrial Injuries) Act 1965 (the Industrial Injuries Act). Sickness benefit is a benefit under the National Insurance Act 1965. The procedure for determining claims under the two Acts was, however, assimilated by the National Insu-

rance Act 1966 subject to variations in a Schedule not relevant to this case. Accordingly the procedure for appealing against an insurance officer's decision is in respect of both benefits the same, namely the procedure under the National Insurance Act 1965. Under that Act an appeal against a decision of an insurance officer must be brought within twenty-one days after the date of the decision "or within such further time as the chairman of the local tribunal may for good cause allow" (section 69(2)). There is no right of appeal direct from a decision of an insurance officer to the Commissioner, nor is there a right of appeal to the Commissioner from a refusal by a chairman of a local tribunal to extend the time. The only right of appeal to the Commissioner so far as relevant to this case is "from any decision of a local tribunal" (section 70(1)). The result is that whether one regards these proceedings as an attempt to appeal to the Commissioner from an insurance officer's decision direct or from a refusal of an extension of time by the chairman, the Commissioner has no jurisdiction to entertain the proceedings and they are a nullity. This is in accordance with Decision R(I) 44/59, which was decided under the industrial injuries procedure before 1966 which was in all relevant respects identical with the present procedure.

6. This would have been the position even if there had been merely an application to the chairman and a refusal by him. It is unnecessary to consider whether the claimant's solicitors had a right to reinstate their application after it had been withdrawn.

7. The claimant's purported appeal is therefore a nullity and I have no jurisdiction to entertain it.

(Signed) R. G. Micklethwait
Chief Commissioner.
