
Late claim—reasonable cause for delay

A dock worker developed a rash after handling a damaged cargo of chemicals. Although he did not know the exact nature of his disease he was aware that it was caused by his work. He did not, however, know that it was one of the prescribed diseases, and he did not claim disablement benefit until nine months later.

Held that the claimant had not shown reasonable cause for the delay in claiming, which was due simply to ignorance of his rights and duties.

1. My decision is that the claimant had not shown reasonable cause for his failure to claim disablement benefit before the 28th October, 1952 and therefore benefit in respect of any period before the 28th July, 1952 should have been forfeited.

2. The claimant is a dock worker. After having been engaged in discharging a cargo of chemicals, which had been damaged by fire, he developed a rash. He was not rendered incapable of work but on the 16th January, 1952 he attended for treatment at the medical centre conducted by the Port Labour Authority. He hoped that the rash would respond to treatment and would clear away, but it did not. The medical centre is staffed by a nurse and is attended by a doctor, and the claimant continued to attend for examination and treatment until his trade union secretary arranged that he should be examined by a dermatologist on the 13th September, 1952. The claimant made a claim for disablement benefit on the 28th October, 1952 and the degree of his disablement was provisionally assessed at 20 per cent.

3. Although the claimant did not know the exact nature of his trouble until it was diagnosed by the dermatologist, he was aware in January, 1952 that it was the result of handling the damaged chemical cargo, and when he became aware of this he made out an accident form for his employers, the Docks and Inland Waterways Executive. He also placed the matter in the hands of his trade union. He did not claim under the National Insurance (Industrial Injuries) Acts because he did not know that he could do so until he was advised to claim, after the matter had been referred to his trade union's headquarters.

4. The local appeal tribunal took the view that the claimant did not know, until he was examined by the dermatologist on the 13th September, 1952, that he was suffering from a prescribed disease, and therefore that

he could not reasonably be expected to have made a claim before this. It is clear, however, that although the claimant may not have known the exact nature of his disease he did know in January, 1952 that it was due to his handling of the salvaged cargo; the claimant himself says so, and he filled in an accident form for his employers and placed the matter in the hands of his trade union. That is to say the claimant well knew that he was suffering from a skin rash which was due to the nature of his employment, and the only reason why he did not claim disablement benefit earlier than the 28th October, 1952 was that he did not know that his rash was one of the prescribed diseases.

5. It was not necessary for him to have delayed his claim until his condition had been diagnosed as a prescribed disease by a specialist; the question whether his disease was one of the prescribed diseases which would entitle him to benefit, and whether it was due to the nature of his employment, would have been determined by methods set up by the National Insurance (Industrial Injuries) Acts, once he had set the machinery in motion by making his claim. It is clear to me that the only reason why the claimant did not claim long before October, 1952 is that he did not know that he had a right to benefit, or did not know the procedure for claiming.

6. It is settled law that ignorance of the right to benefit or of the procedure for claiming it does not amount in itself to reasonable cause for failing to claim in time. A person is expected to take reasonable measures to acquaint himself with his rights and duties under the National Insurance (Industrial Injuries) Acts by inquiring of the officials whose duty it is to advise him at any local National Insurance Office. I cannot agree with the local appeal tribunal in holding that the claimant has shown reasonable cause for his delay in claiming. His delay in my judgment was due simply to ignorance of his rights and duties under the National Insurance (Industrial Injuries) Acts.

7. The insurance officer's appeal is allowed.
