

COMPENSATION NEWS

MONTHLY REPORT

90 Days to deny injury runs from the date the applicant files the claim form

This is a Supreme Court decision.

The applicant claimed an industrial injury to his body and psyche for a period of January 1, 1995 through October 16, 1998.

The company medical record indicated in July that the applicant's private physician had prescribed the applicant medications for work related stress.

On October 16, the applicant's wife called the employer and informed the employer the applicant had been admitted to a psychiatric facility

In this issue...

Honeywell v. WCAB (Wagner)

for a nervous breakdown. The hospital records did indicate work problems.

A claim form was not sent until January 1999. The claim form was returned January 15, 1999 and the case was denied March 31, 1999.

The matter was tried before a Workers' Compensation Judge (WCJ) on the grounds that the employer did not deny the claim timely pursuant to Labor Code section 5402. Therefore, the case should be presumed compensable. The WCJ found it compensable on the grounds the employer had sufficient knowledge in October.

The Workers' Compensation Appeals Board issued an en banc decision on petition for reconsideration and

rescinded the WCJ decision. The case eventually made it to the Court of Appeal and finally the Supreme Court.

The Supreme Court ruled that the 90 days runs from the filing of the claim form only. The employer can be estopped from the running of the 90 days from the filing of the claim form only under three circumstances. These are elucidated in the decision and will be applied on a case by case basis.

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