



**World Bank Administrative Tribunal**

**2020**

**Decision No. 635**

**ER (No. 3),  
Applicant**

**v.**

**International Bank for Reconstruction and Development,  
Respondent**

**(Preliminary Objection)**

**World Bank Administrative Tribunal  
Office of the Executive Secretary**

**ER (No. 3),  
Applicant**

**v.**

**International Bank for Reconstruction and Development,  
Respondent**

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Andrew Burgess (President), Mahnoush H. Arsanjani (Vice-President), Marielle Cohen-Branche (Vice-President), Janice Bellace, Seward Cooper, Lynne Charbonneau, and Ann Power-Forde.

2. The Application was received on 8 June 2020. The Applicant represented himself. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 30 October 2020.

3. The Applicant is challenging the 17 December 2019 decision of the Workers' Compensation Administrative Review Panel (ARP) denying his claim for workers' compensation.

4. The Bank filed preliminary objections to the Application on 15 July 2020. This judgment addresses the Bank's preliminary objections.

**FACTUAL BACKGROUND**

5. The Applicant joined the International Bank for Reconstruction and Development (the Bank) in February 2004. The Applicant currently serves as a Resource Management Analyst, Grade Level GE.

6. In 2014, the Applicant found what he deemed an unauthorized budget increase of \$80 million allocated to Information Technology Solutions (ITSVP) for Fiscal Year 2015 (FY15) to FY17. The Applicant reported his finding to the Office of Ethics and Business Conduct (EBC) which advised him to consult the Internal Audit Department (IAD).

7. In 2015, the Applicant brought concerns to the President of the World Bank Group, EBC, and other senior staff regarding what he characterized in his Application as “possible willful misrepresentation of ITSVP related budgets found in FY16 Budget document related to [...] FY16 to FY18.”

8. On 7 July 2015, the Chief Counsel (Corporate Administration), Legal Vice Presidency of the Bank, emailed the Applicant in response to the concerns the Applicant had raised about the ITSVP budget. The Chief Counsel informed the Applicant that his concerns were reviewed by Bank Management, EBC, and IAD. He explained that no misconduct or unethical behavior was uncovered, but issues related to governance were identified, which led to recommendations around transparency of the ITSVP budget. The Chief Counsel told the Applicant that his line management would continue to engage with him to address any remaining concerns.

9. On 7 July 2016, the Applicant had a meeting with his line management – including the Vice President of the Budget, Performance Review and Strategic Planning unit (BPS); the Director of the Budget; and the Applicant’s Manager – to discuss an alleged budget anomaly of over \$20 million in FY17 for ITSVP. As stated in an 8 July 2016 email to the Applicant from his Manager recounting this meeting, BPS management told the Applicant during the meeting:

- You are to focus on the BPSSP work program.
- BPS management will no longer consider your allegations.
- While there has been and will [be] no retaliation for raising concerns in a professional manner, threatening behavior cannot be tolerated. You must desist immediately from harassing or threatening colleagues.
- Finally, your health is a concern, as is the general well-being and happiness of your family; a suggestion is made for you to avail yourself of the Bank’s counseling and health services.

10. During this 7 July 2016 meeting, the Applicant discussed problems with his eyesight, including issues of vision loss, with those present. This specific portion of the discussion was not recorded in the meeting minutes at the time. It was subsequently acknowledged in a 6 November 2017 email from the Director of the Budget to the Applicant that the Applicant did indeed raise his eye condition in the meeting on 7 July 2016.

11. According to the Applicant, in a follow-up conversation with the Vice President of the Budget in July 2016, the Applicant and the Vice President of the Budget discussed the return of the budget increase, “false documentations” in the meeting minutes of the July 2016 meeting, and possible adverse effects on the Applicant’s employment. According to the Applicant, the Vice President of the Budget “strongly recommended” that the Applicant seek guidance from the Bank’s stress counseling unit.
12. On 23 September 2016, the Applicant went to the Health and Safety Directorate (HSD) for work-related stress problems.
13. The Applicant saw an HSD counselor periodically from 23 September 2016 to 23 February 2018.
14. The HSD counselor’s notes from the first meeting between the Applicant and the HSD counselor on 23 September 2016, state that the Applicant presented as “struggling with frustration and mistrust of his unit” and “described suffering from this work stress due to the knowledge of the mismanagement of funds.” Further, the notes state that the Applicant “appeared to be anxious” and “has been having difficulty sleeping and been distracted by thoughts about all of this information that he knows.” These HSD notes state, “The writer will meet with the client to further discuss interest in seeing an outside therapist. At this point he was not interested.”
15. The Applicant had another counseling session with the counselor on 28 October 2016. According to the counseling records prepared by the counselor, “[the Applicant] was motivated to receive some help with these obsessive thoughts, but not open to therapy at this point.”
16. The Applicant had meetings with the counselor in November 2016, December 2016, February 2017, and March 2017. In the 23 March 2017 session, the Applicant is reported to have “appeared calmer and more focused, witnessed by his speaking slower and smiling a bit more.”
17. According to the Applicant, he did not seek any other medical treatment for his work-related stress from September 2016 to July 2017.

18. On 25 July 2017, the Applicant met with a different HSD counselor and explained his concerns regarding the ITSVP budget. This new counselor recommended that the Applicant consult an external psychiatrist and psychologist for weekly personal therapy, but, in the counseling session, the Applicant declined this recommendation. According to the counseling notes for this session, the Applicant “reported that stress could have contributed to personal health issues, including diabetes and eye problems.” Later that day, the Applicant requested that the new counselor refer him to a psychiatrist. The Applicant was also advised on 28 July 2017 via email from the new counselor that a psychiatrist rather than psychologist could prescribe medication if needed.

19. The Applicant met with a psychiatrist periodically from August 2017.

20. The Applicant continued to have counseling sessions with the HSD in August 2017, September 2017, November 2017, December 2017, and February 2018.

21. On 20 July 2018, the Applicant filed a claim with the Bank for workers’ compensation seeking reimbursement of \$1,500.00 for medical expenses paid to his psychiatrist from August 2017 to March 2018.

22. On 29 August 2018, the Bank’s Claims Administrator, Broadspire Services, Inc., denied the claim for workers’ compensation. As stated in the Claims Administrator’s letter to the Applicant:

We regret to inform you that we are unable to approve your claim as it does not fall within the Workers’ Compensation guidelines. Based upon our review, we found that your illness/injury did not arise as a direct result of your employment.

23. On 11 October 2018, the Applicant requested that the Claims Administrator reconsider his claim.

24. On 9 April 2019, the Claims Administrator informed the Applicant as follows:

Having completed our reconsideration of your claim for Worker's Compensation benefits under the Program, we have determined you are not eligible for Worker's Compensation benefits.

Accordingly, your claim for Worker's Compensation benefits has been denied due to the following reason[s]:

- Your medical records indicate you are alleging stress due to work. Stress is not a covered injury or occupational disease under worker's compensation.
- You failed to file your claim within 12 months of the injury or diagnosis of an occupational disease as required under Staff Rule 6.11 section 3.02. Based on your records, you first sought treatment for this condition on September 23, 2016 but did not report your claim until July 23, 2018.

25. On 24 July 2019, the Applicant filed an appeal of the Claims Administrator's decision with the ARP. The Applicant asserted that his initial claim was timely filed, and that stress is a covered injury or illness for purposes of workers' compensation.

26. On 17 December 2019, the ARP affirmed the denial by the Claims Administrator. The ARP stated:

It is clear from the evidentiary record that the Claimant was aware not only of the nature of his psychological condition, but also his belief that this illness (work-related stress) was related to his employment as early as September of 2016. [...] Based upon the evidence in the record, the Claimant suffered from stress, which the Claimant believed to be work-related, prior to the referral to and his treatment with a psychiatrist in 2017.

Taking the latest date (the latest date is more favorable to the Claimant) of September 30, 2016, the Claimant should have filed his claim for workers' compensation benefits by September 30, 2017, within 12 months after the date he became aware or should have become aware of the relationship between his illness and his employment with the World Bank Group. Because the Claimant did not file his claim until July 25, 2018, his claim was not timely filed in accordance with the Staff Rules and is, therefore, barred.

Accordingly, this panel will not address the remaining issues raised by the Claimant.

27. On 8 June 2020, the Applicant filed this Application with the Tribunal seeking review of the decision of the ARP. In his Application, the Applicant asks the Tribunal to (i) order that "his

claim related to stress is covered by the DC Workman Compensation Act;” (ii) order the Bank to reimburse him for all psychiatrist payments beginning on 2 August 2017; and (iii) order the Bank to reimburse any future psychiatric treatments.

28. On 15 July 2020, the Bank filed preliminary objections challenging the Applicant’s case as inadmissible and thus seeking dismissal on jurisdictional grounds.

## SUMMARY OF THE CONTENTIONS OF THE PARTIES

### *The Bank’s Main Contentions*

29. According to the Bank, the Applicant failed to exhaust internal remedies in a timely fashion and has not claimed any exceptional circumstances to excuse the untimeliness. The Bank contends on this basis that the Applicant’s claim before the Tribunal is inadmissible.

30. The Bank contends that the ARP based its decision on the correct time frame pursuant to Staff Rule 6.11, which governs the Bank’s Workers’ Compensation Program. Paragraph 4.01 of Staff Rule 6.11 provides as follows:

If a Staff Member’s injury, illness or death is believed by a claimant to arise out of and in the course of employment, a claim for applicable workers’ compensation benefits may be filed with the Claims Administrator by the Staff Member, a surviving spouse or Domestic Partner, a Child, or an appointed guardian. A claim must be filed with the Claims Administrator within the timeline provided in the Procedure, “Workers Compensation Program – Claims Procedure.”

The relevant portion of the “Workers’ Compensation Program – Claims Procedure” (the Procedure) is paragraph 3.02, which provides a 12-month time frame within which to file a claim.

31. The Bank holds in line with the ARP that the relevant date is 23 September 2016, as it is when the Applicant became aware of the alleged relationship between his stress and his employment and made the cognizant decision to seek treatment. The Bank supports this contention by relying upon the Applicant’s statements in his Application to the Tribunal:

Sept 2016: As directed by my line management, I sought the guidance of Health and Safety Directorate HSD (previously known as the Health Services Department) for work-related stress problems.

Additionally, the Bank contends that the record of the HSD counselor further supports 23 September 2016 as the relevant date for purposes of Staff Rule 6.11:

He was referred by his manager because he seemed “stressed.” He reports that he has been struggling with frustration and mistrust of his unit. He described suffering from this work stress due to the knowledge of the mismanagement of funds (reportedly millions of dollars), and his failed attempts to have these concerns corrected.

32. The Bank contends that the Applicant’s claim for workers’ compensation on 20 July 2018 was filed out of time because it was almost two years from the date he first became aware of the alleged work-related illness. The Bank reasons that the Applicant’s insistence that the relevant date is the date on which he was advised by the HSD counselor to seek external psychiatric counseling is misplaced because, according to the Bank, the 25 July 2017 HSD recommendation was based on the same work-related stress for which the HSD had been counseling the Applicant starting on 23 September 2016. The Bank further contends that the Applicant was recommended by the HSD on three occasions to see an external therapist for “work stress” before he actually saw an external therapist, and the Bank asserts that this clearly identifies the Applicant’s condition to be work-related.

33. The Bank contends that the Applicant’s filing before the Tribunal suffers from the same flaw of untimeliness of seeking internal remedy before the Claims Administrator and as upheld upon review by the ARP. The Bank holds that the ARP’s decision was based on the evidence and the relevant legal rules and procedural requirements, and, citing *Chhabra (No. 2)*, Decision No. 193 [1998], para. 7, states that the Tribunal’s task is “limited to reviewing the decision of the [Administrative] Review Panel, by reference to the evidence before that body, with a view to determining whether the conclusion reached by the Review Panel could be reasonably sustained on the basis of that evidence and also whether the Review Panel has acted in accordance with the relevant legal rules and procedural requirements.”



*The Applicant's Response*

34. The Applicant asserts that as directed by his line management he sought guidance from the HSD for work-related stress problems in September 2016. He contends that, from September 2016 to June 2017, the HSD counselor stated that the Applicant was suffering from work-related anxiety and did not require any treatment. The Applicant states that the counselor viewed his behavior as “normal human behavior,” found that he did “not suffer from any medical condition,” and “concluded that no treatment [was] required.”

35. The Applicant contends that 25 July 2017, when he met with a different HSD counselor who indicated he may be suffering from “delusion” and suggested that he seek an external psychiatric consultation, is the relevant date for purposes of Staff Rule 6.11. He claims that this is when his work-related stress injury was diagnosed by a competent medical professional. The Applicant holds that because he filed his initial claim for workers’ compensation on 20 July 2018 – less than 12 months after his purported diagnosis – his claim was timely. He states that, prior to 25 July 2017, the HSD “did not provide any treatment or [make a] diagnostic conclusion that [he] require[d] medical treatment,” and that the Bank’s contention that his diagnosis for work-related stress was on 23 September 2016 is false.

36. The Applicant purports that he can only make a claim for a work-related stress injury once that injury has been diagnosed and not purely for the fact that he has visited the HSD Counseling Unit. The Applicant contends that the Bank’s view on timing – that is, that the Applicant should have filed his claim earlier and before his purported diagnosis – would in effect require the Applicant to act unethically and would amount to a form of insurance fraud on the part of the Applicant.

37. The Applicant contends that stress is a covered illness under the Bank’s Workers’ Compensation Program.

## THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

38. The issue before the Tribunal is whether the Applicant's workers' compensation claim was timely filed.

39. The ARP took the position that the Applicant's claim was untimely, finding:

It is clear from the evidentiary record that the Claimant was aware not only of the nature of his psychological condition, but also his belief that this illness (work-related stress) was related to his employment as early as September of 2016. In his written statement, submitted in support of his appeal, the Claimant states that he sought treatment with the Health and Safety Directorate for work-related stress problems in September of 2016 [...] and continued under their care. Although the Claimant did not seek treatment from an external psychiatrist until July or August of 2017, it is clear from the Claimant's own statements that he was aware of his alleged work-related illness and made the cognizant choice to seek treatment for this condition in September of 2016. Based upon the evidence in the record, the Claimant suffered from stress, which the Claimant believed to be work-related, prior to the referral to and his treatment with a psychiatrist in 2017.

The ARP held that "the Claimant should have filed his claim for workers' compensation benefits by September 30, 2017, within 12 months after the date he became aware or should have become aware of the relationship between his illness and his employment with the World Bank Group."

40. The Applicant's view is that only on 25 July 2017 was he diagnosed with work-related stress injuries which required treatment, and that his claim was filed within 12 months of this date pursuant to the timeline requirements of Staff Rule 6.11.

41. In considering the present Application, the Tribunal will examine paragraph 3.02 of the Procedure, which states in full:

Claims must be submitted to the Bank Group's Claims Administrator within 12 months after the illness is diagnosed or the injury or death occurs, or if later, 12 months after the date when the claimant became aware, or by the exercise of reasonable diligence should have become aware, of the relationship between the Staff Member's employment and his/her illness, injury or death.

Paragraph 3.02 of the Procedure first specifies, “Claims must be submitted to the Bank Group’s Claims Administrator within 12 months after the illness is diagnosed or the injury or death occurs [...]” Paragraph 3.02 then goes on to state, “or if later, 12 months after the date when the claimant became aware, or by the exercise of reasonable diligence should have become aware, of the relationship between the Staff Member’s employment and his/her illness, injury or death.” The language “or if later” suggests that, if claims are filed later than 12 months post diagnosis or injury or occurrence of death, then the claims must be filed within 12 months from “the date when the claimant became aware, or by the exercise of reasonable diligence should have become aware” of the relationship between his illness and his employment with the Bank.

42. The Tribunal has held with respect to its canons of interpretation that it “first looks to the plain and ordinary meaning of the rule,” and “[i]n appropriate cases, in addition to the text itself, the Tribunal may have regard to the object and purpose of the rule.” *CE (Preliminary Objection)*, Decision No. 479 [2013], para. 38, citing *Mould*, Decision No. 210 [1999], para. 13; *Cissé*, Decision No. 242 [2001], para. 23. Further, the Tribunal has previously stated in *J*, Decision No. 349 [2006], para. 39, with reference to Staff Rule 6.11 at that time, that the requirement that the clock on the filing period will not start until the “claimant has become aware or should have become aware of a possible relationship between the injury, illness or death and the staff member’s employment” is an “important exception” to the requirement that “claims must be filed not more than one year after the injury, illness or death giving rise to the claim.”

43. In the present case, the Bank takes the position that the Applicant became aware of his work-related stress at least by September 2016 when he went to the HSD and discussed his concerns pertaining to the ITSVP budget and the effect the situation was having on him personally. Relying upon this date – 23 September 2016 – as the date which is relevant for purposes of triggering the Staff Rule 6.11 limitation of 12 months to file a claim, the Applicant’s claim would be time-barred.

44. The Applicant contends that the diagnosis of his work-related illness came on 25 July 2017, when he claims he was diagnosed with delusion by a new HSD counselor and referred to an external psychiatrist, and that his filing on 20 July 2018 was therefore timely.

45. The Tribunal finds its analysis in *DT*, Decision No. 541 [2016] to be of relevance here. In *DT*, the applicant sought workers' compensation on the basis of work-related stress which she alleged worsened progressively over the years, led to hospitalizations, and affected her health in the form of Irritable Bowel Syndrome and a pinched S1 nerve. *Id.*, para. 14. She filed her claim in November 2013, and both the Claims Administrator and the ARP denied the claim as being time-barred and as not arising as a direct result of her employment. The ARP found that the claimant "had received diagnoses with regard to all of her conditions and, given her own statement and the medical evidence [...], was aware or at the very least in the exercise of ordinary diligence ought to have been aware of a possible connection between these conditions and her employment, more than one year prior to [...] filing the claim." *Id.*, para. 24. The applicant asserted, however, that the particular "triggering event in terms of the need to file a claim" was a trip she made to Country L in October 2012 during the course of which she alleged her condition worsened and she experienced additional pains. *Id.*, para. 36.

46. In *DT* [2016], the Tribunal held that the applicant's claim for workers' compensation should be dismissed because her illness or injury was not sustained in the course of her employment with the International Finance Corporation (IFC). In its review of the evidence and interpretation of the relevant Staff Rules, the Tribunal found that the applicant was not employed by the IFC during the relevant date of onset of her illness/injury but rather by the government of Country L, and that her claim should therefore be rejected. Before reaching this conclusion, however, the Tribunal stated that "the determination of the nature of the illness from which the [a]pplicant is suffering as well as the moment in which it started is closely linked to the question of the starting date for the timely filing of a claim." *Id.*, para. 37.

47. The importance of "the determination of the nature of the illness from which the [a]pplicant is suffering" noted in *DT* is relevant to determining the time frame in the present case. In this respect, the records of the Applicant's counseling sessions with the HSD are integral to questions of the determination of his illness/injury.

48. Specifically, at the earliest session, 23 September 2016, the counselor's comments note that the Applicant "appeared to be anxious" and that "[i]t is unknown whether these thoughts and

this situation are based in reality or not.” The 23 September 2016 comments also state, “The writer will meet with the client to further discuss interest in seeing an outside therapist. At this point he was not interested.” On 28 October 2016, the HSD counseling notes record that the Applicant “was motivated to receive some help with these obsessive thoughts, but not open to therapy at this point.” On 22 December 2016, the counselor noted that the “[Applicant] was calm and focused as he expressed his thoughts. He was much less anxious than during other meetings, and seemed more settled about the situation. He expressed that he is not bothered by what is happened [*sic*], but ethically is choosing to move forward.” The 16 February 2017 notes state that the “[Applicant] is still managing the stress of believing that there has been an error that is not being addressed,” while the 23 March 2017 counseling notes state that the Applicant “appeared calmer and more focused.”

49. On 25 July 2017, a different HSD counselor met with the Applicant. The counselor’s notes for that session state that “benefits to improve [the Applicant’s] stress management toolbox” were discussed, and that the “[Applicant] reported that stress could have contributed to personal health issues, including diabetes and eye problems.” The 25 July 2017 notes also state that the Applicant “was recommended to consult external psychiatrist and psychologist for weekly personal therapy, but refused.”

50. The counseling records show that the Applicant was aware of some work-related stress at least since his September 2016 session with the HSD. Yet the HSD counseling records over the period 2016–17 offer varying descriptions of the Applicant’s presentation which may be considered to impact upon the determination of his illness/injury. The Tribunal therefore understands the counseling records to suggest that the Applicant had cause to consult the HSD, but that there was insufficient certainty with respect to the determination of his illness/injury, as evidenced by some counseling notes suggesting the Applicant appeared more anxious than others, and with specific mention of referral to a psychiatrist or psychologist only evident in the notes of the 25 July 2017 session. Moreover, no diagnosis is ever offered by the HSD, and the Tribunal finds that evidence of stress-related visits to the HSD does not in itself amount to a diagnosis for purposes of Staff Rule 6.11.

51. In *Hayati*, Decision No. 228 [2000], the ARP also denied a claim for workers' compensation on the basis of untimely submission, and thus the issue on appeal to the Tribunal was whether the claimant had filed her claim within the Staff Rule 6.11 one-year time frame. In *Hayati* [2000], the applicant's job responsibilities with the Bank over a 13-year period involved a large amount of typing, and she sought workers' compensation on the basis of "carpal tunnel syndrome and severe chronic right and a moderate chronic left hand median nerve entrapment at the wrists." *Id.*, paras. 5–6. The Tribunal found that the applicant's claim was not time-barred because "the relevant date for imputing to the [a]pplicant awareness of the causal relationship between her injury and her employment is the date when it became clear that a lasting injury necessitating surgery had been sustained and that it was work related." *Id.*, para. 20. The Tribunal noted, "The purpose of the one-year limitation is to ensure that complaints of a work-related injury should be brought expeditiously so that the Bank can, as stated in its pleadings, 'address, manage and possibly mitigate liability' and so that an injury arising out of the workplace will not 'continue unattended.'" *Id.*, para. 18. But the Tribunal also cautioned that "[t]his objective should be balanced with the need to discourage premature complaints. This is in the interest of both the Bank and its employees. Otherwise, employees will have to file a claim for every routine and minor work-related ailment to preserve their rights." *Id.*

52. These concerns of the Tribunal in *Hayati* [2000] are instructive in the present case. For instance, one reasonable concern with respect to the Staff Rule 6.11 time frame could be that starting the clock whenever a staff member visits the HSD would potentially have a chilling effect and lead to staff members delaying needed engagement with the HSD. Alternatively, the reality of the sometimes-stressful work of an international organization such as the Bank could open the floodgates to cases for workers' compensation simply from staff who are well-suited to visit and be counseled and supported by the HSD. Such possible outcomes would not be ideal from a practical or policy perspective. Therefore, as the Tribunal concluded in *Hayati* [2000], para. 19:

[T]here must be some certainty required in the determination of whether any injury is sustained before a claim should be made, particularly when the injury is of a cumulative nature and it cannot be ascertained exactly when it occurred. Furthermore, whether the ailment is subject to cure by modest treatment measures or is permanent in nature is material. There is a need for certainty in order to settle the legal position between the Bank and its employees and to ensure stability in

such situations. All these factors are relevant in determining the appropriate date for lodging a complaint.

53. In determining the appropriate date for purposes of Staff Rule 6.11 in the instant case, the Tribunal observes that the Applicant may have been benefiting from counseling with the HSD – a modest treatment measure – and that his state was being monitored through the HSD counseling sessions. The Tribunal therefore views filing a claim for workers’ compensation due to work-related stress based on a time frame triggered by the first visit to the Bank’s HSD Counseling Unit to be premature because the record indicates that there was an ongoing determination of the nature of the illness from which the Applicant was suffering.

54. But the Tribunal observes that there are clear and important distinctions in the HSD counseling notes of 25 July 2017 when compared to those of the earlier sessions. First, the 25 July 2017 session notes record that a positive recommendation was made to the Applicant that external help was needed, as opposed to the earlier sessions where this appears to have been an option that was merely discussed. Second, at the 25 July 2017 session the Applicant was told precisely what was needed – consultation with an external psychiatrist and psychologist – with the Applicant also being informed on 28 July 2017 that a psychiatrist would be able to prescribe medication. And, third, the 25 July 2017 HSD session provided the Applicant with an indication of the required frequency of his needed treatment, noting that it should be weekly.

55. It does not appear from the rather terse counseling notes that the Applicant was found to have a treatable condition before 25 July 2017. It is only at this point that the counseling documentation clearly indicates that he was referred to a physician. This recommendation can be viewed as a triggering event for purposes of applying Staff Rule 6.11. This is the point at which the Applicant was made aware that his mental state needed attention and treatment by a physician. The evidentiary record also suggests that this is the point at which the Applicant became aware of a potential work-related illness, taking into account both the Applicant’s claim that the HSD counselor indicated on 25 July 2017 that he may be suffering from delusion and the specific recommendations coming from the HSD counselor on 25 July 2017 as detailed above. The Tribunal thus finds that the relevant date in this case for the purpose of triggering Staff Rule 6.11 was no earlier than 25 July 2017 when the records specifically indicate that the Applicant was

“recommended to consult external psychiatrist and psychologist for weekly personal therapy, but refused.” As the Applicant filed his claim with the Claims Administrator on 20 July 2018, it is considered timely.

56. The Claims Administrator should not have denied the Applicant’s claim on the basis of untimeliness, and the ARP should not have upheld the Claims Administrator’s decision. There was an improper application of the relevant rule, Staff Rule 6.11.

57. The Tribunal notes that the Claims Administrator previously considered the Applicant’s claim on the merits, finding on initial review that the “illness/injury did not arise as a direct result of [the Applicant’s] employment,” and on reconsideration that “[s]tress is not a covered injury or occupational disease under worker’s compensation.” Given this, the Tribunal sees no reason to return the Applicant’s claim to the Claims Administrator for further review. Accordingly, the parties are instructed to file pleadings on the merits.

## DECISION

The Bank’s preliminary objections are dismissed.



/S/ Andrew Burgess

Andrew Burgess

President

/S/Zakir Hafez

Zakir Hafez

Executive Secretary

At Washington, D.C.,\* 16 November 2020

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\* In view of the public health emergency occasioned by the COVID-19 pandemic and in the interest of the prompt and efficient administration of justice, the Tribunal conducted its deliberations in these proceedings remotely, by way of audio-video conferencing coordinated by the Office of the Executive Secretary.