

Summary of ER (No. 3) v. IBRD, (Preliminary Objection) Decision No. 635 [2020]

The Applicant submitted an Application to the Tribunal challenging the denial of his request for workers' compensation benefits. The Bank submitted preliminary objections to the admissibility of the Application. The Bank asserted that the Applicant failed to exhaust internal remedies in a timely fashion, in line with the Workers' Compensation Administrative Review Panel's 17 December 2019 decision that the Applicant's request for benefits was time-barred.

The central issue before the Tribunal was whether the Applicant filed his claim for workers' compensation within the 12-month time frame provided under Staff Rule 6.11. Specifically, paragraph 3.02 of the Workers' Compensation Program – Claims Procedure states, "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." The Applicant filed his claim on 20 July 2018. According to the Bank, the 12-month clock began on 23 September 2016 when the Applicant first visited the Bank's Health and Safety Directorate (HSD) for work-related stress counseling. In the Bank's view, the Applicant's workers' compensation claim was filed late and is thus barred. The Applicant contended that the relevant date for purposes of starting the 12-month time frame was 25 July 2017 when he met with a different HSD counselor who indicated he may be suffering from "delusion" and recommended he seek an external psychiatric consultation.

The Tribunal reviewed the Applicant's HSD counseling records and observed that "the Applicant had cause to consult the HSD, but [...] there was insufficient certainty with respect to the determination of his illness/injury." The Tribunal also noted that no diagnosis was ever offered by the HSD, and found that "evidence of stress-related visits to the HSD does not in itself amount to a diagnosis for purposes of Staff Rule 6.11." The Tribunal viewed "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 indicate[d] that there was an ongoing determination of the nature of the illness from which the Applicant was suffering."

But the Tribunal observed "clear and important distinctions" in the counseling notes of 25 July 2017 as compared to the Applicant's earlier counseling sessions with the HSD. Specifically, the Tribunal observed that "a positive recommendation was made to the Applicant that external help was needed," and that "the Applicant was told precisely what was needed – consultation with an external psychiatrist and psychologist." Additionally, the Tribunal noted that at the 25 July 2017 session, the Applicant was made aware by the HSD counselor of "the required frequency of his needed treatment." The Tribunal therefore found that the relevant date for purposes of 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.'" The Tribunal held the Applicant's workers' compensation claim was timely filed.

Decision: The Bank's preliminary objections were dismissed.

This summary is provided to assist in understanding the Tribunal's decision. It does not form part of the reasons for the decision. The full judgment of the Tribunal is the only authoritative document. Judgments are available at: www.worldbank.org/tribunal