

Summary of FS v. IBRD and IDA, (Preliminary Objection) Decision No. 640 [2020]

The Applicant submitted an Application to the Tribunal challenging the denial of her request for workers' compensation benefits by the Workers' Compensation Administrative Review Panel (ARP). The Bank Group submitted preliminary objections to the admissibility of the Application. The Bank Group contended that the Applicant filed her claim for workers' compensation late, and thus failed to comply with the Tribunal's statutory requirement regarding exhaustion of internal remedies by failing to observe the time limits for submitting an internal complaint or appeal.

The Applicant claimed electromagnetic emissions from the installation of a "server rack" in the Bank Group's Guinea-Bissau office in November 2013 made her ill. She filed a claim for workers' compensation on 31 December 2015. The central issue before the Tribunal was whether the Applicant filed her claim 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."

In the Bank Group's view, the Applicant was aware of an alleged link between her illness and employment by February 2014 and the 12-month clock began by 23 May 2014, consistent with the ARP's decision as to the relevant date for purposes of Staff Rule 6.11. The Applicant contended that she never received a conclusive medical diagnosis of her illness due to the Bank Group's neglect, and that the relevant start date for purposes of filing her claim was 9 August 2015 when she received a summary of an environmental assessment of the Bank Group's office space.

The Tribunal noted that "a medical diagnosis need not be conclusive for the purposes of filing a workers' compensation claim," and found that "the Applicant received a diagnosis of polyneuropathy on 23 May 2014." The Tribunal was also convinced, based on the evidentiary record, that the Applicant was aware of a relationship between her illness and her employment by May 2014. Further, the Tribunal took note of *Hayati*, Decision No. 228 [2000] in which the Tribunal concluded that "there 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." *Id.*, para. 19. But the Tribunal observed that the Applicant's alleged illness became apparent at a specific time – February 2014, when she sought medical treatment – and that her alleged illness could be further distinguished from that in *Hayati*.

The Tribunal found "it clear that the Applicant received a probable diagnosis and believed her illness to be related to her employment with the Bank Group by 23 May 2014." This date was the relevant date for purposes of triggering the 12-month clock for filing a workers' compensation claim under Staff Rule 6.11. The Tribunal held the Applicant's claim was thus time-barred.

Decision: The Application was 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