

it during the 12-month period. A presumption can be refuted by evidence on the contrary. Did Anderson's discovery of his condition in 1954 refute the presumption in his favor, and prevent his collecting? The court held that it did not. It noted that a progressive disease such as coronary sclerosis may be noticed years before it becomes disabling. To protect Anderson's rights, the court held that contraction of the disease was a legal concept rather than a medical one. It held that a worker legally contracts a disease when it affects his ability to fully perform his job. The court held Anderson did not become disabled until shortly before he left his job. The disease, therefore, was contracted within 12 months before it became disabling. Claim allowed. Anderson v. City of Minneapolis. Supreme Court of Minnesota, 103 N.W. 2d 397 (June 3, 1960). -- Occ. Hazards

113 He Smoked—Then Burned.

A man named Boggan worked for an employer whose business required extensive use of highly flammable substances. A strict rule prohibited any smoking by anyone in the building. Boggan entered a washroom and lighted a cigarette. He threw the match into the toilet bowl. The contents of the bowl exploded in flames. Boggan grabbed a bucket of sand to put out the fire. As he dumped the sand into the toilet, some of the flaming matter splashed onto him, injuring him. He said his attempt to squelch the flames was an act on his employer's behalf, and therefore part of his job. The court held otherwise. Lighting the cigarette was such a violation of his employer's orders that it amounted to a deviation from work and took him outside the scope of his employment. The court felt that instead of helping his employer by trying to extinguish the fire, he instead was merely trying to avoid detection by trying to undo what his original wrong had done. Claim denied. Boggan v. Abbey Finishing Company. New York Supreme Court, Appellate Division, 200 N.Y.S. 2d 488 (May 16, 1960). -- Occ. Hazards

114 The Board Lost.

A worker was burned to death in a butane gas explosion. He was never identified positively, because his body was too badly burned. For 2 years no one made any compensation claim. Texas statutes provide that in the event no survivors are entitled to compensation, the insurer must pay a certain sum into a general fund for the administration of the Workmen's Compensation Act. The Industrial Accident Board asked for this sum. The divided court held that mere absence of claimants was not enough proof there were no survivors entitled to benefits, and denied the Board's claim. A dissenting judge felt that since no one had made any claims, that alone should establish there were no survivors. Claim denied. Industrial Accident Board v. Texas Employer's Insurance Association. Texas Court of Appeals, 336 S.W. 2d 216 (June 1, 1960). -- Occ. Hazards

115 Silicosis—Injurious Exposure—Statutory Presumption.

The Board erred in placing upon the claimant the burden of proof of establishing that he had suffered an injurious exposure to silica dust within 2 years of the date of his disablement. It was undisputed that the claimant was totally disabled as the result of many years' exposure to silica dust. The court stated that the applicable statute specifically set out that any worker who had been exposed to the hazards of harmful dust for a period of at least 60 days subsequent to September 1, 1935 was presumed to have suffered an injurious exposure. Since there was no evidence to the contrary in the record, the court held that the claim had been erroneously dismissed. It was necessary to remand the case to determine whether 60 days' exposure had been suffered and which employer had been the last to employ the claimant under these conditions; the statutory burden of liability falls upon the last employer. Colombo v. Carideo. New York Supreme Court, Appellate Division, Third Judicial Department. No. 2341. July 12, 1960.

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