FILE NAME: Insulators Workers' Comp Claims (IWC)

DATE: 1960

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DOCUMENT DESCRIPTION: Claimant - Kendrick, Lloyd E.

(14)

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS

STATE OF WASHINGTON

In re LLOYD E. KENDRICK)	DOCKET NO. 17,566
)	
Claim No. C-680913)	DECISION AND ORDER
)	

APPEARANCES:

Claimant, Lloyd E. Kendrick, by
Fredrickson, Maxey and Bell, per
Leo H. Fredrickson

Employer, Armstrong Contractor and Supply Co.,
None

Department of Labor and Industries, by
The Attorney General, per
Marcus M. Kelly, Assistant

Appeal filed by the claimant, Lloyd E. Kendrick, on April 4, 1962, from an order of the supervisor of industrial insurance dated March 30, 1962, adhering to a prior order dated November 17, 1960, which rejected the claimant's claim for an occupational disease on the ground that the claimant's condition was not an occupational disease as contemplated by section 51.08. 140 R.C.W.
6-7-51.

DECISION

The issues presented by this appeal are (1) Whether the claimant developed an occupational disease as a result of his employment by Armstrong Contractors and Supply Corporation; and (2) whether the claim for occupational disease was filed within the one year period of limitation prescribed by R.C.W. 51. 28. 055.

By stipulation of the parties, this appeal was submitted to the board for its determination based upon the information contained in the departmental claim file and a written medical report submitted by Dr. S. Thatcher Hubbard, the claimant's attending physician.

After a careful review of the record, we are persuaded that the claimant did develop pulmonary emphysema and pulmonary fibrosis as a result of inhaling particles of asbestos or fibreglass during the course of his employment as an insulation mechanic by Armstrong and the other employers named in the department file. We are further persuaded that by November, 1954, the condition had become disabling and required medical treatment and that the exposure occurring during the course of the claimant's employment by Armstrong was one of the proximate causes of the development of this condition.

The record also reveals that the claimant was first advised that his lung condition was related to his occupational exposure on or about November 4, 1959, which date is within one of the date on which he filed his claim for compensation with the department of labor and industries.

FINDINGS

In view of the foregoing and after a complete review of the record, the board finds as follows:

1. On March 23, 1960 the claimant filed a "report of accident" with the department of labor and industries alleging that he had developed an occupational disease during the course of his employment as an insulation mechanic by Armstrong Contracting and Supply Corporation. On November 17,1960, the supervisor of industrial insurance issued an order rejecting the claim for the reason that the claiman's condition was not an occupational disease as contemplated by section 51. 08. 140, R.C.W. On December 6, 1960, the claimant appealed to this board, but on December 28, 1960 , the supervisor entered a further order holding the order of November 17, 1960, in abeyance, pending further investigation, and consequently, on December 29, 1960, this board issued an order denying the claimant's appeal. On March 30, 1962, the supervisor issued an order adhering to the prior order of November 17, 1960. On April 4, 1962, the claimant appealed to this board, and on April 26, 1962, his appeal was granted.

2. The claimant was employed as an insulation mechanic from 1928 until 1930, and from 1941 to November 1954, in this state and also in Alaska. His employment required the handling of asbestos and fibreglass instulation material and exposed the claimant's lungs to the inhalation of fine particles of asbestos and fibreglass. From 1941 to November 1954, the claimant was employed as an insulation mechanic by approximately six different employers. The claimant worked for Armstrong Contracting and supply Corporation at various intervals during this period, totalling approximately four years, and for Asbestos Supply Company of Spokane, the predecessor of Armstrong, for a further period of time. The claimant left insulation work in November, 1954, at which time he was in the employment of Armstrong Contracting and Supply Corporation.

3. The claimant contracted pneumonia in 1954 and was disabled for approximately three months. In 1946 or 1947, the claimant was poisoned by carbon monoxide. Sometime thereafter, but before May, 1954, the claimant experienced lung difficulty in Alaska, consisting of tightness of chest and coughing and wheezing upon exposure to cold air. In February of 1954, while in Alaska, the claimant experienced a severe attack of bronchitis. In May, 1954, the claimant began to experience further chest difficulties and sought medical treatment therefor. Thereafter, the claimant was treated by various doctors, and was hospitalized on three occasions during 1954. However, he was not advised by a physician that there was a causal relationship between his lung difficulty and his occupation until November, 1959. In November, 1959, the claimant was advised by Dr. S. Thatcher Hubbard that he should file a claim for an occupational disease.

4. As a result of the claimant's exposure to asbestos and fibreglass particles, during the course of his employment by various employers, the claimant developed pulmonary emphysema and pulmonary fibrosis. By May, 1954, this condition had become disabling and medical treatment therefor was necessary. The claimant's exposure occurring during his employment by Armstrong Contracting and Supply Corporation was one of the proximate causes of the development of his lung condition.

CONCLUSIONS

Based on the foregoing findings of fact, the board concludes as follows:

1. This board has jurisdiction of the parties and subject matter of this appeal.

2. The claim of Lloyd E. Kendrick for an occupational disease was made within the one year period of limitation prescribed by R.C.W. 51. 28. 055.

3. The order of the supervisor of industrial insurance dated May 30, 1962, should be reversed, and this claim remanded to the department of labor and industries with direction to allow the claim as an occupational disease.

ORDER

Now, therefore, it is hereby ORDERED that the order of the supervisor of industrial insurance issued herein on March 30, 1962, be and the same is hereby, reversed and this claim is hereby remanded to the department of labor and industries with direction to allow the claim and to take such other and further action as may be authorized or required by law.

Dated this 26th day of November, 1962.

BOARD OF INDUSTRIAL INSURANCE APPEALS

R. H. POWELL Member

HAROLD J. PETRIE Member

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The record also reveals that the claimant was first advised that his lung condition was related to his occupational exposure on or about November 4, 1959, which date is within one of the date on which he filed his claim for compensation with the department of labor and industries.

FINDINGS

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Dated this 26th day of November, 1962.

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