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Late Notice Bars Employee's Claims

Late Notice Bars Employee's Claims for Fusion Surgery

*Karl L. Anderson v.
Frontier Communications*

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***Karl L. Anderson v. Frontier Communications and
CNA/American Casualty Co. of Reading, PA***, Supreme Court
Decision filed August 10, 2012.

The Minnesota Supreme Court decided this case on August 10, 2012, barring the employee's claims for fusion surgery and related claims for failure to provide the employer with timely notice of a work-related injury. They also determined that the employer did not have actual notice of the employee's claimed injury. They affirmed the compensation judge's denial of the low back injury and the findings that the employee failed to provide written notice two years after the last day of his employment. The relevant facts included:

1. From 2004 to 2005, his back progressively worsened. By April 2007, he knew that his work activities were aggravating his back.
2. In May of 2007, his doctor diagnosed degenerative disc disease and by June of 2007, he told his supervisor that he needed time off from work because of low back surgery, but failed to inform his employer that it was a work-related condition.
3. The compensation judge determined that the employee knew his low back was aggravated by work activities as of the last date of employment on July 4, 2007, just before the discectomy and fusion.
4. In May of 2009, his attorney obtained medical support for the employee's injuries and treatment, giving the employer written notice that the employee was claiming a work-related condition.

This case is significant because of the discussion of the statutory provisions regarding written notice of the injury and its discussion of the employers' actual notice of the employee's injury. It discusses the legal basis for tolling the notice provision and the principles of *Issacson v. Minnetonka, Inc.*, 411 N.W.2d 865, 867 (Minn. 1987), when it becomes "reasonably apparent to the employee that the injury has resulted in, or is likely to cause, a compensable disability."

For a complete copy of the Supreme Court Findings, [click here](#).

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