

STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT

NUMBER 2005 CA 1380

FRANK H. HUDSON

VERSUS

EAST BATON ROUGE PARISH SCHOOL BOARD

Judgment Rendered: June 21, 2006

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Appealed from the District 5
Office of Workers' Compensation Administration
In and for the State of Louisiana
Trial Court Number 98-07519

Honorable Pamela Moses-Laramore, Workers' Compensation Judge

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Frank H. Hudson
Baton Rouge, LA

In Proper Person
Plaintiff – Appellant
Frank H. Hudson

Karen D. Murphy
Baton Rouge, LA

Attorney for
Defendant – Appellee
East Baton Rouge Parish
School Board

* * * * *

BEFORE: WHIPPLE, McCLENDON, AND WELCH, JJ.

FW
Vgwy
Bgr
MK

WELCH, J.

The plaintiff in this case was employed by the East Baton Rouge Parish School Board and incurred an on-the-job injury on September 15, 1992. He received workers' compensation (temporary total disability) benefits from January 11, 1993 through January 11, 1995. He returned to work in January 1995 at his pre-injury position (bus mechanic) and continued earning his full pre-injury wages, until he was terminated from his employment on September 11, 1998. On October 30, 1998, the plaintiff filed the 1008 disputed claim form seeking supplemental earnings benefits, which forms the basis of this appeal.¹ The workers' compensation judge granted the defendant's exception of prescription and dismissed plaintiff's claims. For the following reasons, that judgment is affirmed.

Louisiana Revised Statute 23:1209(A) governs the prescriptive period for claims for supplemental earnings benefits, giving a claimant three years from the date of the last payment of benefits to bring a claim for supplemental earnings benefits.

We have thoroughly reviewed the record and find that the evidence fully supports the workers' compensation judge's conclusion that the plaintiff's claim for supplemental earnings benefits was filed more than three years after the date he received his last workers' compensation benefits payment. Therefore, we affirm the judgment granting the defendant's exception of prescription and dismissing plaintiff's suit with prejudice.

¹ At the hearing on the exception and again on appeal, the plaintiff makes reference to another 1008 disputed claim form that he asserts was timely filed. The workers' compensation judge made every effort to ascertain the correctness of plaintiff's assertions, even taking a recess to search the court's records. This search revealed that plaintiff had filed a disputed claim form in 1997, which had been dismissed without prejudice on June 24, 1997. The workers' compensation judge generously considered, for the sake of argument and giving plaintiff's claims every benefit of the doubt, that even if that claim interrupted prescription, it was not an SEB claim; therefore, plaintiff would have had one year from the date of the dismissal of that claim, or until June 24, 1998, to timely file another claim. Hence, the judge found that even giving plaintiff's claims the most lenient and generous interpretations, they were, nonetheless, prescribed.

We also note that we thoroughly reviewed the transcript of the hearing in this matter and find that the workers' compensation judge was more than lenient and generous with the plaintiff, who was unrepresented, by explaining the law and giving plaintiff's claims every benefit of the doubt. On appeal, plaintiff raises nothing new for review, by way of argument or otherwise, which has not already been fully argued and considered by the workers' compensation judge. It is simply inescapable under the facts of this case, and for the reasons clearly explained at the hearing on the exception, that plaintiff's claim has prescribed.

Therefore, we affirm the judgment of the workers' compensation judge in accordance with Rule 2-16.2A(2), (4), and (5) of the Uniform Rules of Louisiana Courts of Appeal. All costs of this appeal are assessed to the plaintiff.

AFFIRMED.