

King, Freda

TIMELINESS OF CLAIM (RCW 51.28.050; RCW 51.28.055)

Filing

When the last day for filing a claim falls on a Saturday or Sunday, the claimant has until the end of the next day which is neither a Saturday, Sunday or holiday to file the claim (WAC 296-08-070).*In re Freda King, BIIA Dec., 69,935 (1985)* [Editor's Note: To the extent it is inconsistent, *King* was overruled by *In re Gwen Carey*, BIIA Dec., 03 13790 (2005).]

Scroll down for order.

**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON**

1 **IN RE: FRED A. KING**) **DOCKET NO. 69,935**
2)
3 **CLAIM NO. J-502206**) **DECISION AND ORDER**
4 _____

5 APPEARANCES:

6
7 Claimant, Freda F. King, by
8 Robert A. Garrison

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10 Employer, Olympus Apartments, by
11 None

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13 Department of Labor and Industries, by
14 The Attorney General, per
15 Dorothy C. Bullitt and Carol Molchior, Assistants

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17 This is an appeal filed by the claimant on February 6, 1985 from an order of the Department of
18 Labor and Industries dated January 24, 1985 which adhered to the provisions of a prior order rejecting
19 the claim on the grounds that no claim was filed by the worker within one year after the day upon
20 which the alleged injury occurred. **REVERSED AND REMANDED.**

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23 **DECISION**

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25 Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review
26 and decision on a timely Petition for Review filed by the Department of Labor and Industries to a
27 Proposed Decision and Order issued on June 24, 1985 in which the order of the Department dated
28 January 24, 1985 was reversed, and the claim remanded to the Department with direction to accept
29 the claim as filed within the time limitations set forth in RCW 51.28.050 and provide such benefits as
30 indicated, authorized and required by law.

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33 The facts, as stipulated by the parties, are set forth in the Proposed Decision and Order of June
34 24, 1985, and are incorporated herein by this reference, with the modification that the year 1974 as
35 stated in Stipulations 1, 5 and 6 is corrected to read 1984.

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38 The question is: Was the claimant's accident report and claim for benefits, received by the
39 Department on October 8, 1984, filed within one year of October 6, 1983, the date of injury herein, as
40 required by RCW 51.28.050? On a calendar basis, of course, October 6, 1984 marked the last day of
41 the one-year filing period. However, that date was a Saturday.

1 In accordance with the authority vested in it by law RCW 51.04.020(1), the Department has
2 adopted Rules of Practice and Procedure. Rule .08.070 thereof, effective March 18, 1960, (WAC
3 296-08-070), provides:

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6 "In computing any period of time prescribed or allowed by the rules or by
7 the order of the department or any division, board, commission or council
8 thereof or by any applicable statute, the day of the act, event, or default
9 after which the designated period of time begins to run is not to be
10 included. The last day of the period so computed is to be included, unless
11 it is a Saturday, Sunday or a legal holiday, in which event the period runs
12 until the end of the next day which is neither a Saturday, Sunday nor a
13 holiday. When the period of time prescribed or allowed is less than seven
14 days, intermediate Saturdays, Sundays and holidays shall be excluded in
15 the computation." (Emphasis supplied)

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17 Additionally, for dictum to the effect that where the one-year time period ends on a Saturday or
18 Sunday, the time limitation is extended through the next business day, See Wilbur v. Department of
19 Labor and Industries, 38 Wn.App. 553, at 556 (1984).

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21 In sum, we hold that the claimant's accident report, having been filed with the Department on
22 Monday, October 8, 1984, was within the one-year statutory deadline. All factual matters having been
23 stipulated, no formal Findings of Fact need be entered.

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25 The order of the Department of Labor and Industries dated January 24, 1985, adhering to the
26 provisions of a prior Department order dated December 24, 1984, rejecting this claim, is incorrect and
27 should be reversed, and this claim remanded to the Department with instructions to allow the claim
28 herein for injury of October 6, 1983, and to take such other and further action as may be indicated,
29 authorized or required by law.

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33 It is so ORDERED.

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35 Dated this thirteenth day of August, 1985.

36 BOARD OF INDUSTRIAL INSURANCE APPEALS

37
38 /s/ _____
39 MICHAEL L. HALL Chairman

40
41 /s/ _____
42 FRANK E. FENNERTY, JR. Member

43
44 /s/ _____
45 PHILLIP T. BORK Member