

MALAN BROTHERS WATCHMAN AGENCY, PETITIONER, VS. MAGDALENO CONANAN AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENT.

G. R. No. L-19019. April 29, 1963

Ponente: DIZON, J.

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DIZON, J.:

Appeal by certiorari from the order of the Workmen's Compensation Commission-through its Chairman-dated September 18, 1961, and its Resolution en banc of September 28, 1961, in WCC-R04-Case No. 62349 entitled Magdaleno Conanán vs. Malan Brothers Watchman Agency.

Respondent Magdaleno Conanán was a member of petitioner, Malan Brothers Watchman Agency, a duly licensed Watchman Agency in the City of Manila engaged in the recruitment of men for employment as special watchmen or security guards of business establishments.

On November 6, 1959, while performing his duties as security guard in the premises of the Manila Bay Hosiery Mills, Inc. at Bacood, Sta. Mesa, Manila, Conanán sustained injuries on his left leg when his service pistol accidentally went off. On January 6, 1960 he filed with the Regional Office No. 4 of the Department of Labor a claim for compensation against petitioner under Act No. 3428, as amended. A copy of the same was sent to the latter on February 5, 1960, together with W.C.C. Forms Nos. 3, 4 and 5 (Employer's Report of Accident or Sickness, Physician's Report of Accident or Sickness, respectively) for it to accomplish, but they were returned unclaimed. On March 29 of the same year, a copy of said claim and forms were again sent by registered mail to petitioner at its new address at 202 Dr. Alejog St., La Loma, Quezon City. Receipt thereof was acknowledged by its manager, Fabio Malan, on April 4, 1960. It was only on October 3, 1960, however, that petitioner submitted to the Regional Office the accomplished forms contesting Conanán's claim but at the same time admitting having paid the latter the sum of P350.00 as "voluntary help".

As petitioner was deemed to have failed to controvert the claim because the controversion mentioned heretofore was filed long after the expiration of the period provided for in Section 45 of Act No. 3428, as amended, the Regional Administrator, on October 12, 1960, made an award in favor of the claimant in the amount of P3,371.46. A copy thereof was sent by registered mail to petitioner on October 26, 1960, but petitioner obstinately refused to claim it at the post office despite two registry notices sent to it on November 11 and 22, 1960. On February 1, 1961, a followup letter of the Regional Administrator dated December 6, 1960 requiring petitioner to pay the amount of the award was served on him by Rizal Cruz, a labor investigator of Regional Office No. 4.

It was only on February 3, 1961 that petitioner moved for a reconsideration of the award on the ground that it was granted without a hearing. The Administrator denied the motion on June 2, 1961. A second motion for reconsideration was likewise denied on June 16 of the same year. Thereupon, petitioner appealed to the Workmen's Compensation Commission.

On September 18, 1961, the Commission issued an order dismissing the appeal, and petitioner's motion for

reconsideration of said order having been denied, the present appeal was taken.

The principal question involved in this appeal is whether the questioned award had become final and executory when petitioner moved for its reconsideration.

Upon the facts stated heretofore, it appears clear that the ruling of Regional Administrator Naldo, of Regional Office No. 4, to the effect that petitioner had failed to controvert the claim of Conanan is correct, because the controversion was not filed or made within the time provided by law. It appears likewise clear that petitioner's motion for reconsideration was filed out of time, because notice of the award sent to petitioner must be deemed complete upon the expiration of five (5) days from November 11, 1960 when he received the first registry notice. As he filed his motion for reconsideration only more than sixty (60) days thereafter, said motion could no longer be entertained.

Petitioner's claim that the award is void because it was rendered without any notice of hearing having been served on him is without merit. Conanan's claim being non-controverted, the Regional Administrator was authorized to decide the game upon the submission to him of the claim and accompanying evidence-as was done in the present case-without the necessity of holding a formal hearing. (*Bachrach Motor Co. Inc., vs. The Workmen's Compensation Commission et al.*, 99 Phil., 238).

The record does not disclose that the late filing of the controversion by petitioner was excusable, because as a matter of fact, it appears that it had knowledge of the accident on the very date it occurred, namely, November 6, 1959, and was served with a copy of the claim and accompanying documents on April 4, 1960. It took petitioner six months to controvert the same.

In view of all the foregoing, the orders appealed from are affirmed, with costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

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