

**SECURITY SERVICES UNLIMITED INC., PETITIONER, VS.
WORKMEN'S COMPENSATION COMMISSION AND AIDA B.
VDA. DE UMPAD, FOR HERSELF AND IN BEHALF OF HER MINOR
CHILDREN RICKY, ROGELIO JR....**

G.R. No. L-40739. January 30, 1976

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for review on certiorari the decision of the Workmen's Compensation Commission in RO4-WC Case No. 144061 (Rogelio Umpad-Deceased), entitled "Aida B. Umpad, for herself and in behalf of her minor children Ricky, Rogelio Jr., and Rose, all surnamed Umpad, claimants, versus Security Services Unlimited, Inc., respondent", affirming the "Award" of Workmen's Compensation Section, Regional Office No. 4, dated January 7, 1974, in the same case, with respondent therein "assessed the additional amount of P500 as cost of review". The dispositive portion of the "Award" is quoted as follows:

"Award, therefore, is hereby entered in favor of the claimants of the aforementioned benefits and respondent ordered to pay:

"1. The claimants, thru this Office, the sum of Six Thousand One Hundred Ninety Pesos and 40/100 (P6,190.40) as death benefits; and

"2. The Workmen's Compensation Fund, the amount of P60.00 as administrative fee, pursuant to Section 55 of the Act. Bill No. IV-1733-73 is attached.

"SO ORDERED."

Petitioner anchors its argument that it was denied due process and that respondent Commission abused its exercise of discretion, amounting to lack of jurisdiction, in affirming the questioned award, on the following allegations:

1. That there was no employer-employees relationship at the time the late Rogelio Umpad was shot to death;
2. That even granting arguendo, that there was employer-employee relationship at the time Rogelio Umpad was shot to death, yet he was at a place where he should not be, and at a place not of his work and his deviation was not incidental to or in pursuance of his employment;
3. That the doctrine supervening in the course of employment, may only be validly applied when the employee suffered an injury or met an accident while in the actual employ of his employer at the place where he reasonably should be and while doing something incidental to his employment and not when there is a clear and strong evidence that he was absent or that he has abandoned his post when he met his death;
4. That the lack of controversion or timely controversion on the part of the employer even if that may be true, cannot prevail over the lack of employer-employee relationship at the time when the employee met his death for there was then at that time no jurisdictional foundation for the claim to prosper.

What appears clearly in the award of Workmen's Compensation Section, Regional Office No. 4, is the fact that "the respondent having filed its Employer's Report of accident on October 26, 1973, admitting knowledge of the injury since December 25, 1972, nevertheless failed to controvert 'the claimants' right to compensation within 14 days from death or within 10 days from knowledge thereof, pursuant to Section 45 of Act 3428, as amended, resulting, as it did, in the loss of its non-jurisdictional defenses and ultimate admission of the compensability or work-connection of the decedent's death an outright award in favor of the latter is, under those conditions, legally warranted."

Respondent Commission predicated its questioned decision on the finding that:

"Under the law and the Rules of the Commission for controversion to have any legal effect, the same must not only be filed within ten (10) days from knowledge of the injury or death or fourteen (14) days from disability, but the same must also state in clear terms the reasons why compensation to the employee or his heir, as the case may be, is being refused by the employer. Measured against these standards, it is very evident that respondent's (Security Services Unlimited, Inc.) controversion suffers from the fatal defect of being filed too late, it appearing that respondent knew of the injury befalling the deceased on December 25, 1972, and filed its controversion only on November 2, 1973." (Italicized for Emphasis)

The finding of facts contained in respondent Commission's decision shows that "Rogelio Umpad, a security guard of the respondent (Security Services Unlimited, Inc.), succumbed on December 24, 1972 at 11:00 o'clock p.m. to brain injury secondary to gunshot wound of the head sustained due to an accident (assault) which supervened in the course of his employment. The injury of the deceased was known to the respondent, through its Col. Serafin M. Gonzales, on December 25, 1972. Its controverting claim and report were however filed only on November 2 and 5, 1973, respectively. Because of non-controversion, the chief referee issued an award dated January 7, 1974, finding the death of Rogelio Umpad compensable and thereby granting to the claimants the sum of P6,190.40 as death benefit and reimbursement of burial expenses."

To Our mind there exists but infinitesimal doubt that respondent Commission lawfully acquired jurisdiction over private respondents' claim for death benefits against the petitioner-employer because it is not contested, even by petitioner, that at the time of Rogelio Umpad's death on December 24, 1972, he was employed as a security guard of the respondent, or stated otherwise, employer-employee relationship existed at the time of Umpad's death. Petitioner's contention that Umpad's death happened while not in the performance of his duties as an employee and not in connection with the employment are proper and legal defenses to evade the claim filed against it, and they are proper defenses that may be raised before respondent Commission, non-jurisdictional in nature or defenses that impliedly accepts the jurisdiction of the entity before whom they are raised to evade liability.

The Workmen's Compensation Act No. 3428, as amended, in its Sec. 45, provides:

"In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the accident and the reason why compensation is not being paid. Failure on the part of the employer or the insurance carrier to comply with this requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary reports, on the basis of which grounds the Commissioner may reinstate the right to controvert the claim". (Italicized for Emphasis)

Act 3428 being in the nature of social legislation there is no question that its provisions must be interpreted liberally in favor of employees because the law is intended to protect their rights. The aforequoted provision (Sec. 45 of Act 3428) succinctly provides that failure on the part of the employer (petitioner) to controvert the right to

compensation within fourteen days from disability or ten days from knowledge of the accident shall constitute a renunciation of his right to controvert. The period provided by law maybe of short duration but it must have been intended to protect employees from subsequently concocted defenses upon advice of legal counsel they could well afford to pay and which may be raised by the employer simply to defeat or delay the legitimate claims of employee. When petitioner failed to comply with the aforementioned requirement of the law, by its own act it waived its right to controvert the claim, hence with its presumed knowledge of the law, it voluntarily waived its right to due process (hearing and presentation of evidence to prove its defenses). Petitioner has nobody to blame but itself for its failure to controvert the claim on time.

This Court already held that failure to submit the required report (Sec. 37, Act 3428) by the employer may mean "constructively admitting that it is compensable" and "constitutes a renunciation of the right to controvert the claim" (Gen. Shipping Co. Inc. vs. W.C.C. and Vda. de Ricardo, G.R. No. L-14936, July 30, 1960).

It is a well settled rule in this jurisdiction as shown in the following citations that failure to controvert a claim on time also means waiver of the right to due process:

"As a rule, when the employer does not controvert the claim of the employee for compensation, he is also deemed to have waived his right to interpose any defense, and could not prove anything in relation thereto." (Dangue vs. Franklin Baker Co. of the Phil., et al., G.R. No. L-15838, April 29, 1960; italicized supplied).

"* * * having failed to controvert the right of the claimant within the ten day period prescribed in Sec. 45 of the Act, the compensability of the present claim, its reasonableness and validity is now beyond challenge. The absence of controversion is fatal to any defense that could be interposed. So we have held in a host of decisions in compliance with the clear and express language of the Workmen's Compensation Act. Any assertion to the contrary is doomed to futility." (La Mallorca vs. W.C.C., 30 SCRA 619-620; italics supplied).

"Having renounced by operation of law the right to contest the employees right to compensation, petitioner is deemed also to have waived the right to interpose any defense and, hence, there is nothing it can legally prove in relation thereto." (Victorias Milling Co., Inc. vs. W.C.C., et al., G.R. No. L-10533, May 13, 1957; Fuentez vs. Dinamira, L-14965, Aug. 31, 1961, 2 SCRA 1133).

"The employers failure to controvert a claim for compensation entitles the claimant to compensation as a matter of law * * *." (Blanco vs. W.C.C., 29 SCRA 12).

"Non-controversion in compensation cases, as in the case of pleading in ordinary civil case, implies admission of facts but not conclusions of law." (Aboitis Shipping Corp vs. Pepito, L-21335, Dec. 17, 1966).

We likewise noticed that in this case, petitioner never filed a petition before respondent Commission to reinstate his right to controvert before an award was made in accordance with Sec. 45, of Act 3428, and Sec. 3, Rule 8 of the Rules on Workmen's Compensation Commission, a remedy which it should have properly resorted to instead of questioning the jurisdiction of respondent Commission.

Wherefore, the decision of respondent Workmen's Compensation Commission dated May 8, 1975 is affirmed with costs against petitioner. So ordered.

Teehankee (Chairman), Makasiar, Muñoz Palma and Martin, JJ., concur.

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