

Bueford, Sequoiyah

PENALTIES (RCW 51.48.017)

Employer's liability for acts of service company

A self-insured employer which contracts out its claims administration to a private company cannot thereby insulate itself from liability for the service company's acts of oversight or dereliction, including the delay in the payment of benefits. The acts of a service company are, as a matter of law, the acts of the self-insured employer.

....*In re Sequoiyah Bueford*, BIIA Dec., 63,516 (1983)

Scroll down for order.

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

1 **IN RE: SEQUIOYA BUEFORD**) **DOCKET NO. 63,516**
2)
3 **CLAIM NO. S-366082**) **DECISION AND ORDER**
4

5 **APPEARANCES:**

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7 Claimant, Sequoiah Bueford, by
8 Welch and Condon, per
9 Terry Roberts and Michael Welch

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11 Employer, Nalley's Fine Foods, by
12 Eisenhower, Carlson, Newlands, Reha, Henriot and Quinn, per
13 Richard Jessup

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15 Department of Labor and Industries, by
16 The Attorney General, per
17 Larry Watters, Assistant

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19 This is an appeal filed by the self-insured employer, Nalley's Fine Foods, on December 1,
20 1982, from an order of the Department of Labor and Industries dated November 17, 1982, which,
21 under the provisions of RCW 51.48.017, ordered Nalley's Fine Foods to pay the claimant an
22 additional \$487.74 because of unreasonable delay in making payment of benefits. The Department
23 order is **AFFIRMED**.
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26) **DECISION**
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28 Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review
29 and decision on a timely Petition for Review filed by the employer to a Proposed Decision and
30 Order issued on August 26, 1983, in which the order of the Department dated November 17, 1982
31 was sustained.
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34 The Board has reviewed the evidentiary rulings in the record of proceedings and finds that
35 no prejudicial error was committed and said rulings are hereby affirmed.
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37 The issues presented by this appeal and the factual evidence in the record are very
38 adequately set forth in the Proposed Decision and Order, and we are in firm agreement not only
39 with the proposed disposition of the appeal, but with the resolution of the legal arguments as made
40 at pages 3-9 of the "Decision" portion of the Proposed Decision and Order.
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1 We have granted review not to change any aspect of the Proposed Decision and Order, but
2 to clearly reiterate our position as to the responsibility of a self-insured employer for the acts of a
3 service company when the employer engages such a firm to administer any of its workers'
4 compensation matters.
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7 An injured worker properly entitled to benefits provided under the Workers' Compensation
8 Act has a right to rely on the prompt delivery of those benefits. Not only does a worker have a
9 present injury, but this may be accompanied by anxiety and uncertainty about his employment
10 future. In addition, everyone must meet the immediate and constant financial demands for, at least,
11 the necessities of life. Consequently, any delay in the delivery of time loss or other benefits had
12 better be due to reasons wholly beyond the control of the self-insured employer. Otherwise, the
13 sanctions of penalty authorized in RCW 51.48.017 may properly be imposed. The evidence in this
14 appeal satisfies us that payment of time-loss benefits to the claimant was unreasonably delayed.
15 All the facts are sufficiently set forth in the Proposed Decision and Order and need not be reiterated
16 herein.
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19 In 1971 the legislature created a duty in every employer to secure the payment of
20 compensation under Title 51 RCW by insuring with the state fund or qualifying as a self-insurer.
21 RCW 51.14.010. One of the requirements an employer must satisfy is to submit "a description of
22 the administrative organization to be maintained...to manage industrial insurance matters
23 including...(c) the payment of compensation." RCW 51.14.030(5).
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26 Nowhere within the statutory framework establishing self-insurance is there provision for the
27 limitation of liability or exculpation from penalty because of the acts of the self-insurer's service
28 agency. It would be absurd to hold one self-insurer blameless for delays because of its choice to
29 "contract out" its claims administration to a separate service company, and to penalize for delays
30 another self-insurer which has chosen to administer its claims "in-house". Simply stated, we firmly
31 believe any acts of administrative oversight or dereliction of a service company, including a delay in
32 the delivery of benefits, become, as a matter of law, the acts of the self-insured employer. To
33 interpret the law in any other fashion would encourage the development of practices which could
34 defeat the clear legislative intent that payments to injured workers be promptly made.
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37 After consideration of the Proposed Decision and Order and the Petition for Review filed
38 thereto, and a careful review of the entire record before us, we are persuaded that the Proposed
39 Decision and Order is in accord with the factual evidence and is correct as a matter of law.
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1 The proposed findings, conclusions and order are hereby adopted as this Board's final
2 findings, conclusions and order and are incorporated herein by this reference.
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4 It is so ORDERED.

5 Dated this 8th day of December, 1983.
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7 BOARD OF INDUSTRIAL INSURANCE APPEALS
8

9 /s/
10 MICHAEL L. HALL Chairman
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12 /s/
13 FRANK E. FENNERTY, JR. Member
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15 /s/
16 PHILLIP T. BORK Member
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