

Approved form AF2002-136

made under the

Workers Compensation Rules 1938

Workers Compensation Rules 1938— Form 11

(see r 20)

Answer by respondents

[Heading as in request for arbitration.]

TAKE NOTICE—

That the respondent, C.D., _____ disclaims any interest in the subject matter of the above arbitration.

Or,

That the respondent, C.D., _____ states that the applicant's particulars filed in this matter are inaccurate or incomplete in the particulars hereto annexed.

Or,

That the respondent, C.D., _____ desires to bring to the notice of the Court the facts stated in the particulars hereto annexed.

Or,

That the respondent, C.D., _____ intends at the hearing of the arbitration to give evidence and rely on the facts stated in the particulars hereto annexed.

Or,

That the respondent, C.D., _____ denies his or her liability to pay compensation under the Act in respect of the injury to A.B.,

mentioned in the applicant's particulars, on the grounds stated in the particulars hereto annexed.

Particulars

1 *Particulars in which the particulars filed by the applicant are inaccurate or incomplete—*

2 *Facts which the respondent desires to bring to the notice of the Court—*

That the applicant, A.B. refuses to submit himself or herself to medical examination as required by [*or obstructs the medical examination required by*] the respondent, C.D., in accordance with the Act, schedule 1, clause 5 [*or refuses to submit himself or herself for examination by a medical referee as ordered*] [*or obstructs the examination by a medical referee ordered*] in accordance with paragraph 1] of the Act, schedule 1.

[*or as the case may be.*]

3 *Facts which the respondent, C.D., intends to give in evidence and rely on at the hearing of the arbitration—*

That notice of the alleged injury [*or of death, disablement, or suspension*] was not given to the respondent as required by the Act;
or

That the claim for compensation was not made on the respondent within the time limited by the Act; *or*

That a scheme of compensation [*benefit or insurance*] for the workers of the respondent, C.D., has been duly certified by the Minister, and such certificate was in force at the date of the alleged injury, and C.D., contracted with the applicant, A.B., [*or with the deceased worker*], by a contract which was in force at the date of the alleged injury, that the provisions of the scheme should be substituted for the provisions of the Act, and the said C.D., is consequently liable only in accordance with the scheme.

[*or as the case may be.*]

4 *Grounds on which the respondent denies his or her liability to pay compensation—*

- (i) That the applicant, A.B., _____ is [*or the deceased worker was*] not a worker to whom the Act applies; *or*
- (ii) That the injury to the applicant [*or to the deceased worker*] did not arise out of and in the course of his or her employment; *or*
- (iii) That the injury to the applicant [*or to the deceased worker*] was attributable to the serious and wilful misconduct of the applicant [*or of the deceased worker*]; *or*
- (iv) That at the time of the alleged injury the applicant [*or the deceased worker*] was not immediately employed by the respondent, but was employed by _____ of _____, a contractor with the respondent for the execution by or under such contractor of work undertaken by the respondent, and the injury occurred elsewhere than on, in or about premises on which the respondent had undertaken to execute the work or which were otherwise under the control and management of the respondent; *or*
- (v) That the injury to the applicant [*or to the deceased worker*] was caused under circumstances creating a legal liability in a person other than the respondent, namely, [*name and address of such person*] to pay damages in relation to the injury, and the applicant [*or the deceased worker*] has taken proceedings against that person and has recovered damages from him or her; *or*

In case of industrial disease—

- (vi) That the applicant [*or the deceased worker*] at the time of entering the employment of the respondent wilfully and falsely represented himself or herself in writing as not having previously suffered from the disease mentioned in the applicant's particulars; *or*
- (vii) That the disease mentioned in the applicant's particulars was not contracted whilst the applicant [*or the deceased worker*] was in the employment of the respondent; *or*

(viii) That the disease mentioned in the applicant's particulars was not due to the nature of the employment in which the applicant [or the deceased worker] was employed by the respondent:

[or as the case may be.]

And further take notice, that the names and addresses of the respondent and his or her solicitor (or, agent) are—

Of the respondent, C.D.,

Of his or her solicitor,

(Or, Agent).

Dated:

(Signed)

respondent, C.D.

[or Solicitor for the respondent, C.D.

(or Agent).]

To the Registrar of the Magistrates Court, and

To the applicant, A.B., and

To the respondents,

[if any, naming them].

Endnotes

- 1 This form was originally in the *Workers Compensation Rules 1938*, schedule 1. Under amendments made by the *Legislation (Consequential Amendments) Act 2001*, the form was omitted from the rules and became a form approved under the rules, rule 89 (see amdt 1.2805, amdt 1.2807).
- 2 This republication includes amendments made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

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