

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Patrick Murray,	:	
Petitioner	:	
	:	
v.	:	No. 303 C.D. 2025
	:	Submitted: June 16, 2026
City of Philadelphia (Workers’	:	
Compensation Appeal Board),	:	
Respondent	:	

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE MATTHEW S. WOLF, Judge
HONORABLE MARY HANNAH LEAVITT, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE LEAVITT

FILED: October 15, 2026

Patrick Murray (Claimant) petitions for this Court’s review of an adjudication of the Workers’ Compensation Appeal Board (Board) that dismissed with prejudice his claim petition for compensation benefits. In so doing, the Board affirmed the decision of the Workers’ Compensation Judge (WCJ) that the claim petition was barred by *res judicata* and collateral estoppel. Upon review, we affirm.

Background

Claimant worked as a police officer for the City of Philadelphia (Employer). On November 7, 2020, he was diagnosed with COVID-19 and reported his diagnosis to his supervisor. Employer designated Claimant’s time off work as “E-Time,” or “excused time,” during which he was paid his full salary without using his accrued sick or vacation leave. The E-Time payments ended on March 5, 2022, at which point Claimant began using his accrued sick leave. Claimant has not returned to work because he continues to have breathing and cardiac issues.

On March 2, 2022, Claimant filed reinstatement and penalty petitions, alleging that his COVID-19 diagnosis was a work injury. Employer then “unilaterally terminated benefits in January 2022 after accepting the claim for COVID with the payment of wages in lieu of benefits as a matter of law.” Reproduced Record at 1a (R.R. ____).

On February 16, 2023, the WCJ denied both petitions. The WCJ found that Employer’s payments made under the E-Time designation did not constitute an acknowledgement that the employee’s COVID-19 diagnosis was work-related. Rather, the E-Time designation applied to employees who could not work for any reason. The WCJ discredited Claimant’s testimony that he gave timely notice to Employer that his COVID-19 diagnosis was work-related. The WCJ reasoned as follows:

[T]his Judge rejects the portion of [Claimant’s] testimony to the extent he indicated he contracted the virus at work or was attempting to report a work-related injury or illness to a supervisor. Instead, this Judge finds the Claimant properly and professionally reported a serious and emerging health issue to a supervisor in an effort to protect the health and safety of other police officers and the general public. If the Claimant was attempting to report his symptoms as a work-related injury or illness[,] his nearly three decades of service should have told him that he needed to complete some type of written or electronic injury report. Further, the Claimant had sustained prior work-related injuries and was aware of the policy to report and document the same. Given the unprecedented uncertainty and confusion during the initial stages of the outbreak of COVID-19, it is understandable that both the Claimant and the Employer primarily focused their attention on retarding the spread of the virus rather than discussing how an individual may or may not have contracted the virus.

WCJ Decision, 2/16/2023, at 9, Finding of Fact No. 14; R.R. 14a (emphasis added). The WCJ also discredited Claimant’s testimony “to the extent he may have identified any specific source or cause(s) of his exposure to the COVID-19 virus or any opinion that his symptoms were due to a work-related exposure to the virus or any other medical opinions offered by the Claimant.” *Id.*

The Board affirmed the WCJ, and on further appeal, this Court affirmed the Board’s adjudication. *Murray v. City of Philadelphia (Workers’ Compensation Appeal Board)* (Pa. Cmwlth., No. 509 C.D. 2024, filed March 26, 2025).¹

On November 6, 2023, Claimant filed a claim petition, alleging that he contracted COVID-19 in the course and scope of his employment as a police officer for Employer. The petition alleged that Claimant gave verbal notice to Employer of his alleged work injury on November 7, 2020, and sought total disability compensation benefits from that date forward. Certified Record (C.R.), Item 2, at 1. Employer filed an answer denying the allegations in the claim petition. At a WCJ hearing on June 3, 2024, Employer moved to dismiss Claimant’s claim petition on the basis of *res judicata* and collateral estoppel. Employer asserted that the WCJ’s decision denying Claimant’s 2022 reinstatement petition made findings of fact that disposed of the allegations in Claimant’s 2023 claim petition. As such, Claimant was precluded from re-litigating those issues.

¹ We affirmed the Board’s denial of Claimant’s reinstatement petition for the reasons set forth in *Brown v. City of Philadelphia (Workers’ Compensation Appeal Board)*, 330 A.3d 12 (Pa. Cmwlth. 2025); *Clarke v. City of Philadelphia (Workers’ Compensation Appeal Board)* (Pa. Cmwlth., No. 508 C.D. 2024, filed January 17, 2025); and *Tymes v. City of Philadelphia (Workers’ Compensation Appeal Board)* (Pa. Cmwlth., No. 464 C.D. 2024, filed January 29, 2025). *Murray*, slip op. at 10-11.

By decision of July 2, 2024, the WCJ dismissed the claim petition with prejudice, holding that it was barred by *res judicata* and collateral estoppel. The WCJ reasoned as follows:

In the prior litigation, this Judge found the Claimant did not provide notice to the Employer that he believed his COVID-19 diagnosis to be work-related. Based upon the principles of res judicata and collateral estoppel, this Judge finds the Claimant is, therefore, now estopped from re-arguing and re-litigating that he sustained a work-related injury, provided timely notice, and was disabled as a result of the alleged injury in the context of the instant Claim Petition. Further, this Judge finds on the issue of notice and the occurrence of a work-related injury the adjudications are identical because the Claimant in both cases sought to establish he sustained a work-related injury and provided timely notice. In the first litigation, the Claimant had a full and fair opportunity to submit any evidence on the issue of whether he contracted COVID-19 at work and that he provided notice to the Employer. Further, this Judge finds notice was essential to the original Reinstatement Petition based upon the “wage in lieu of compensation” theory Claimant argued. Accordingly, this Judge finds the Claimant is now estopped from arguing and re-litigating the notice issue in the instant Claim Petition as it was previously litigated and, therefore, the Claim Petition must be denied.[□]

WCJ Decision, 7/2/2024, at 6; Finding of Fact No. 13 (footnote omitted) (emphasis added). Claimant appealed to the Board.

By adjudication of February 28, 2025, the Board affirmed the WCJ’s decision. The Board held that the claim petition was barred by technical *res judicata*, which precludes a litigation between the same parties on a claim for which a final judgment on the merits has already been rendered. Board Adjudication, 2/28/2025, at 3 (citing *Weney v. Workers’ Compensation Appeal Board (Mac Sprinkler Systems, Inc.)*, 960 A.2d 949, 954 (Pa. Cmwlth. 2008)). Technical *res judicata* also bars

claims that could have been litigated in the prior proceeding. Board Adjudication, 2/28/2025, at 5 (citing *Marinack v. City of Pittsburgh (Workers' Compensation Appeal Board)*, 319 A.3d 105, 112 (Pa. Cmwlth. 2024)). The Board explained that Claimant's claim that his COVID-19 diagnosis was work-related could, and should, have been litigated in the reinstatement proceeding. Instead, Claimant chose to pursue compensation benefits on the theory that the E-Time payments constituted wages paid in lieu of compensation, and, as such, he did not establish a compensable work-related injury through medical evidence. Because Claimant could have filed a claim petition along with the reinstatement and penalty petitions, but chose not to do so, the Board held that the claim petition was barred by technical *res judicata*.

Claimant petitioned for this Court's review.

Appeal

On appeal,² Claimant raises four issues, which we summarize and restate as follows.³

² This Court's review of a workers' compensation adjudication determines whether an error of law was committed, whether constitutional rights have been violated, or whether the findings of fact are supported by substantial evidence. *Myers v. Workers' Compensation Appeal Board (University of Pennsylvania and Alexis, Inc.)*, 782 A.2d 1108, 1110 n.1 (Pa. Cmwlth. 2001).

³ Claimant raises the following issues in the Statement of Questions Involved:

1. Whether the Board and WCJ committed errors of law when dismissing the Claim Petition at issue in this Appeal based upon the technical *res judicata*?
2. Whether the Board and WCJ committed errors of law when dismissing the Claim Petition at issue in this Appeal based upon the collateral estoppel?
3. Whether the Board's assertion that *res judicata* applies because the Claim Petition at issue could have been filed when the Reinstatement/Penalty [Petitions] were filed is supported by any pertinent authority?
4. Whether the Board and WCJ committed errors of law by departing from the humanitarian purposes of the [Workers' Compensation] Act[(Act), Act of June 2, 1915, P.L. 736, as amended, 77 P.S. §§1-1041.4, 2501-2710]?

Claimant Brief at 5.

First, Claimant argues that the Board erred in dismissing his claim petition based upon technical *res judicata*. He argues that the claim petition does not involve the same “thing sued upon or for” and the same “causes of action” that were set forth in the reinstatement petition. Claimant Brief at 10 (quoting *Robinson v. Fye*, 192 A.3d 1225, 1231 (Pa. Cmwlth. 2018)). The reinstatement petition concerned whether Employer intended its E-Time benefits to constitute wages in lieu of compensation. The claim petition, by contrast, concerns whether Claimant contracted COVID-19 in the course of his duties as a police officer for Employer, and this was not adjudicated in the reinstatement petition.

Second, Claimant argues that the Board and the WCJ erred in dismissing his claim petition based upon collateral estoppel. The reinstatement petition was premised upon the theory that Employer had accepted liability for Claimant’s reported COVID-19 diagnosis and, thus, was estopped from denying liability for compensation benefits. Claimant further argues that the WCJ’s finding on Employer’s lack of notice of a work-related injury in the reinstatement proceeding is not dispositive of his claim petition. The requirement in Section 311 of the Act⁴ that an employer be notified within 120 days of the occurrence of the

⁴ 77 P.S. §631. It states:

Unless the employer shall have knowledge of the occurrence of the injury, or unless the employe or someone in his behalf, or some of the dependents or someone in their behalf, shall give notice thereof to the employer within twenty-one days after the injury, no compensation shall be due until such notice be given, *and, unless such notice be given within one hundred and twenty days after the occurrence of the injury, no compensation shall be allowed.* However, in cases of injury resulting from ionizing radiation or any other cause in which the nature of the injury or its relationship to the employment is not known to the employe, the time for giving notice shall not begin to run until the employe knows, or by the exercise of reasonable diligence should know, of the existence of the injury and its possible

work injury is not triggered until a claimant receives a medical opinion that an injury is work-related. An employee's suspicion or belief that his medical condition is work-related is not sufficient to trigger the 120-day notice period. Claimant Brief at 17-18 (citing *The Bullen Companies v. Workers' Compensation Appeal Board (Hausmann)*, 960 A.2d 488, 492 (Pa. Cmwlth. 2008)).

Third, Claimant argues that the Board erred in holding that Claimant should have filed his claim petition with the reinstatement petition. He contends that this is not supported by legal authority and is contrary to the three-year statute of limitations for the filing of a claim petition in Section 315 of the Act, 77 P.S. §602.⁵ Claimant observes that the WCJ, in his decision on the reinstatement petition, stated that a claim petition “remains a viable option[.]” WCJ Decision, 2/16/2023, at 10 n.4; R.R. 15a.

Employer counters that the Board and the WCJ did not err in dismissing the claim petition based upon *res judicata*. The claim petition and the reinstatement petition involve the same “thing sued upon,” which is Claimant's claim that his COVID-19 diagnosis was work-related, and the same “cause of action,” which is an award of indemnity and medical compensation benefits for his COVID-19 diagnosis. Employer Brief at 5. Even so, the claim petition is barred by collateral estoppel

relationship to his employment. The term “injury” in this section means, in cases of occupational disease, disability resulting from occupational disease.

Id. (emphasis added).

⁵ It states, in part, as follows:

In cases of personal injury all claims for compensation shall be forever barred, unless, within three years after the injury, the parties shall have agreed upon the compensation payable under this article; or unless within three years after the injury, one of the parties shall have filed a petition as provided in article four hereof. . . .

Section 315 of the Act, 77 P.S. §602.

because the WCJ found in the reinstatement proceeding that Claimant failed to give Employer timely notice of the alleged work injury, in violation of Section 311 of the Act. Claimant is estopped from re-litigating that issue. Further, in denying the reinstatement petition, the WCJ held that Claimant did not establish that his COVID-19 diagnosis was due to a work-related exposure. Simply, Claimant cannot re-litigate these issues in a subsequent claim petition proceeding.

Analysis

Technical *res judicata* and collateral estoppel are “related, yet distinct” principles of the doctrine known as *res judicata*. *J.S. v. Bethlehem Area School District*, 794 A.2d 936, 939 (Pa. Cmwlth. 2002). Under technical *res judicata*, a final judgment on the merits precludes a future lawsuit on the same cause of action. *Id.* “Technical *res judicata* requires the coalescence of four factors: (1) identity of the thing sued upon or for; (2) identity of the causes of action; (3) identity of the persons or parties to the action; and (4) identity of the quality or capacity of the parties suing or being sued.” *Id.* “Res *judicata* applies to claims that were actually litigated as well as those matters that should have been litigated.” *Id.* “Generally, causes of action are identical when the subject matter and the ultimate issues are the same in both the old and new proceedings.” *Id.*

Collateral estoppel, or issue preclusion, “acts to foreclose litigation in a subsequent action where issues of law or fact were actually litigated and necessary to a previous final judgment.” *J.S.*, 794 A.2d at 939. “[C]ollateral estoppel bars a subsequent lawsuit where (1) an issue decided in a prior action is identical to one presented in a later action, (2) the prior action resulted in a final judgment on the merits, (3) the party against whom collateral estoppel is asserted was a party to the prior action, or is in privity with a party to the prior action, and (4) the party against

whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior action.” *Id.*

We agree with the Board that the instant claim petition is barred by the doctrine of technical *res judicata*. The “thing sued upon or for” in Claimant’s reinstatement petition and claim petition is his entitlement to workers’ compensation benefits for his COVID-19 diagnosis. As to the second element, the identity of the causes of action, Claimant has already litigated his claim for compensation benefits in the reinstatement proceeding and now seeks to re-litigate that question but in a claim petition. Recasting the nomenclature of the request from a reinstatement petition to a claim petition did not change the cause of action. *Zeller v. City of Philadelphia (Workers’ Compensation Appeal Board)* (Pa. Cmwlth., No. 1482 C.D. 2024, filed November 3, 2025) (unreported),⁶ slip op. at 6 (claim petition was barred by technical *res judicata* because the claimant could have litigated his claim of entitlement to workers’ compensation benefits in his prior reinstatement petition). Finally, the parties to both the reinstatement petition and the claim petition are the same, and no issue has been raised as to their capacities to sue or be sued. Thus, the four elements of technical *res judicata* are met.

In the alternative, we hold that the claim petition is barred by collateral estoppel because it has been adjudicated that Claimant did not provide timely notice to Employer of his alleged work-related injury. Section 311 of the Act requires that notice of a work injury “be given within one hundred and twenty days after the occurrence of the injury, [or] no compensation shall be allowed.” 77 P.S. §631. As a prerequisite to receiving workers’ compensation benefits, a claimant bears the

⁶ This Court’s unreported memorandum opinions issued after January 15, 2008, may be cited “for [their] persuasive value, but not as binding precedent.” Section 414(a) of the Commonwealth Court’s Internal Operating Procedures, 210 Pa. Code §69.414(a).

burden of proving he gave adequate notice of a work injury to his employer. *East Hempfield Township v. Workers' Compensation Appeal Board (Stahl)*, 189 A.3d 1114, 1117 (Pa. Cmwlth. 2018). What constitutes adequate notice under the Act is “a fact-intensive inquiry, taking into consideration the totality of the circumstances.” *Gentex Corporation v. Workers' Compensation Appeal Board (Morack)*, 23 A.3d 528, 537 (Pa. 2011). “Whether a claimant has complied with the Section 311 notice requirement is a question of fact to be determined by the WCJ.” *City of Philadelphia v. Workers' Compensation Appeal Board (Wilson)*, 767 A.2d 26, 29 (Pa. Cmwlth. 2001).

In denying Claimant's reinstatement petition, the WCJ found that Employer's payment of E-Time benefits was not intended to constitute the payment of wages in lieu of workers' compensation benefits. WCJ Decision, 2/16/2023, at 11, Finding of Fact No. 19; R.R. 16a. In so finding, the WCJ discredited Claimant's testimony that he notified Employer of his alleged work injury, which was offered to prove that Employer intended the E-Time benefits as workers' compensation payments. Rather, the WCJ found that Claimant “reported a serious and emerging health issue to a supervisor in an effort to protect the health and safety of other police officers and the general public. . . . Claimant and the Employer primarily focused their attention on retarding the spread of the virus rather than discussing how an individual may or may not have contracted the virus.” WCJ Decision, 2/16/2023, at 9, Finding of Fact No. 14; R.R. 14a. Claimant's testimony on his purported notice to Employer was directly related to his claim for a reinstatement of benefits.

Claimant asserts that the 120-day notice requirement in Section 311 of the Act is not triggered until a claimant receives a medical opinion that his injury is work-related. In support, Claimant cites *Hausmann*, 960 A.2d 488. In that case, the

claimant worked for 17 years in a plant that manufactured cleaning products and was exposed to ethylene butyl glycol ether and other solvents. In 2001, he began to experience frequent urination and sought medical attention. He stopped working in June 2002, when the employer closed the plant. In July 2002, he was referred to a kidney specialist who recommended a kidney transplant. The claimant suspected that his kidney ailment was related to his exposure to chemicals in the workplace and retained an attorney to secure a medical expert to determine whether that was the case. In July 2004, he notified the employer that he sustained a work injury and filed a claim petition seeking benefits for an occupational disease, even though his attorney had not yet secured a medical expert. He first learned that his kidney problem was work related in March 2005. The WCJ granted the claimant petition and the Board affirmed.

The employer appealed, arguing, in part, that the claimant failed to give timely notice that his kidney problem was related to his work at the plant. This Court affirmed the grant of compensation based on the “discovery” clause in Section 311 of the Act, which states that for

injury resulting from ionizing radiation or any other cause in which the nature of the injury or its relationship to the employment is not known to the employee, the time for giving notice shall not begin to run until the employee knows, or by the exercise of reasonable diligence should know, of the existence of the injury and its possible relationship to his employment.

77 P.S. §631 (emphasis added). We held that Section 311’s discovery rule “calls for more than an employee’s suspicion, intuition or belief; by its terms, the statute’s notice period is triggered only by an employee’s knowledge that she is injured and that her injury is possibly related to her job.” *Hausmann*, 960 A.2d at 492 (quoting

Sell v. Workers' Compensation Appeal Board (LNP Engineering), 771 A.2d 1246, 1253 (Pa. 2001)).

Hausmann does not support Claimant's construction of Section 311 that the 120-day notice period does not run until a claimant secures an expert medical opinion that his injury is work-related. "The crux of the issue relating to notice . . . is not when did [the c]laimant *actually* know of the work-relatedness of his injury, but *when* [the c]laimant, through the exercise of reasonable diligence, *should have known* the work-relatedness of his injury." *Stahl*, 189 A.3d at 1119-20 (emphasis in original) (rejecting the notion that the 120-day notice period in Section 311 can only begin once a claimant receives a physician's confirmation; such an illogical holding "would not only provide a claimant with a potentially unlimited timeframe in which to provide notice, but it would also serve to nullify the reasonable diligence requirement of Section 311 of the Act").

Here, Claimant does not argue that he lacked knowledge that his COVID-19 diagnosis was work related. To the contrary, he testified in the reinstatement proceeding that a month after he tested positive for COVID-19, he told his supervisor that he believed he contracted the virus at work. WCJ Decision, 2/16/2023, at 3, Finding of Fact No. 2e; R.R. 8a. The 120-day notice period started to run once Claimant knew or should have known the work-relatedness of his injury, which deadline Claimant did not meet.

The issue of Claimant's notice to Employer was decided in the reinstatement proceeding and is identical to the issue of notice presented in the instant proceeding; there was a final judgment on the reinstatement petition; Claimant was a party to the reinstatement petition proceeding; and he had a full and fair opportunity to litigate the notice issue in that proceeding. *J.S.*, 794 A.2d at 939.

All elements of collateral estoppel are met. As such, Claimant is now estopped from arguing that he gave Employer timely notice under Section 311 of the Act in the context of the claim petition.⁷

Conclusion

Because Claimant's claim petition is barred by technical *res judicata* and collateral estoppel, we affirm the Board's February 28, 2025, adjudication dismissing the claim petition with prejudice.

MARY HANNAH LEAVITT, President Judge Emerita

Judge Dumas did not participate in the decision in this matter.

⁷ Claimant argues that the dismissal of his claim petition is inconsistent with the humanitarian objectives of the Act, but this argument has no relevance to the proper application of *res judicata* principles. The Act must be applied in a manner consistent with the doctrine of technical *res judicata*. *Weney*, 960 A.2d at 956. Technical *res judicata* protects the integrity of the workers' compensation system because it prevents litigants from filing "piece-meal review petitions without any justification for doing so, thereby requiring others to continually waste time and resources defending against issues that should have been raised in earlier proceedings." *Id.*

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Patrick Murray,	:	
Petitioner	:	
	:	
v.	:	No. 303 C.D. 2025
	:	
City of Philadelphia (Workers'	:	
Compensation Appeal Board),	:	
Respondent	:	

ORDER

AND NOW, this 15th day of October, 2026, the adjudication of the Workers' Compensation Appeal Board, dated February 28, 2025, is hereby AFFIRMED.

MARY HANNAH LEAVITT, President Judge Emerita