CASE NO. 3248 CRB-2-96-1
CLAIM NO. 0800100001 : COMPENSATION REVIEW BOARD

JOSEPH HOLLAND
CLAIMANT-APPELLANT : WORKERS' COMPENSATION COMMISSION

v.

UTC/PRATT & WHITNEY
EMPLOYER : JANUARY 30, 1998

and

CIGNA
INSURER
RESPONDENTS-APPELLEES

RULING ON MOTION FOR RECONSIDERATION

JESSE M. FRANKL, CHAIRMAN. The respondents have filed a Motion for Reconsideration and Articulation from the November 14, 1997 decision of this board. They request that we reconsider our ruling that the claimant did not waive compliance with the 120-day rule of § 31-300 C.G.S., thereby requiring that the commissioner's Finding and Award be vacated. Although we will not reverse our decision, we will briefly explain our reasoning.

On November 17, 1995, shortly after the 120th day from the filing of the respondents' brief had passed, the claimant's counsel wrote a letter requesting the trial commissioner to "please advise when your decision in the above case can be expected." Said counsel also spoke to a clerk at the district office several times asking when a decision would be forthcoming. These communications evince a concern on the part of the claimant as to when the decision would be issued.

The respondents argue that, "clearly," the claimant was not seeking a new trial under § 31-300, and was in fact authorizing the commissioner to spend extra time considering the case. We understand and appreciate their argument, as we have stated that parties will not be allowed to acquire a type of "veto power" over decisions by failing to object to late awards until after they have had an opportunity to see the results. See Minneman v. Norwich Board of Education/Norwich Public Schools, 2294 CRB-2-95-2 (Dec. 13, 1996), *aff'd*, 47 Conn. App. 913 (1997) (per curiam). However, we do not interpret the communications by claimant's counsel as an intent to waive the possibility of a § 31-300 claim.

If the respondents will recall, before Stewart v. Tunxis Service Center was released by our Supreme Court on May 21, 1996 (see 237 Conn. 71), the rule as expressed by the decisions of this board was that a party could not maintain a § 31-300 claim absent a showing that the tardiness of the decision prejudiced that party. See, e.g., Stevens v. City of Hartford, 8 Conn. Workers' Comp. Rev. Op. 134, 831 CRD-1-89-2 (Aug. 6, 1990). If the instant claimant had been planning to show such prejudice, it would certainly have behooved him to show interest in obtaining this decision once it became tardy. Perhaps our analysis would be different had these events occurred even one year later. But, at the time that claimant's counsel requested this decision, his statements did not bespeak an intent to waive a possible § 31-300 claim.

The respondents' motion for reconsideration is therefore denied.

Commissioners George A. Waldron and Robin L. Wilson concur.