

Industrial Accident Board — Delinquent Compensation Assessments.

Held under the facts stated in the opinion that the receiver is entitled to the benefits of the Workmen's Compensation Act.

Jerome G. Locke, Esq.,
Chairman Industrial Accident Board,
Helena, Montana.

My dear Mr. Locke:

You have submitted to this office for my opinion the following question:

The Boston and Montana Development Company is delinquent in the payment of compensation assessments for the period January 1, 1921, to June 30, 1922, compensation coverage of the company being cancelled on the latter date and suit having been commenced against the company to collect the delinquent assessments. Mr. C. S. Muffly, having been appointed receiver of the Boston and Montana Development Company, and the Boston-Montana Corporation, its successor, has applied for compensation coverage, and you desire to know whether such application can be granted in view of the delinquency of the Boston and Montana Development Company, saying that it has been the established policy of the Board not to accept an application for compensation coverage on the part of any concern that is delinquent in the payment of back assessments, even though the name or legal designation of the concern has been changed; that is, the Board has not in the past permitted any concern to evade the payment of compensation assessments by coming in under the act as a new corporate entity or under a new name.

I know of no provision of the law which gives your Board the power to refuse to accept the application of any company when such company, or its predecessor, is delinquent. The statute authorizes penalties to be imposed for such delinquency, makes such delinquent assessments with penalties liens against the property of the company and authorizes suits to be commenced to foreclose such liens and collect such delinquencies and penalties, but nowhere authorizes or empowers the Board to decline or to refuse to accept the application of such delinquent company. Even if the statute did contain such a provision it is doubtful whether it would be applicable in the instant case. Mr. Muffly has been appointed receiver by a court, and as such receiver is an officer of the court, not of the company, and is holding and operating the property under the directions and orders of the court, and it is as such officer of the court that he is applying for coverage under the Compensation Act.

It is, therefore, my opinion that you should accept the application of Mr. Muffly as such receiver without regard to any delinquency of the Boston and Montana Development Company.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.