

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

BETTY AKERS,

Appellant,

v.

CASE NO. 1D07-3670

STATE OF
FLORIDA-DEPARTMENT OF
CORRECTIONS and DIVISION OF
RISK MANAGEMENT,

Appellees.

Opinion filed July 30, 2008.

An appeal from an order of the Judge of Compensation Claims.
Robert D. McAliley, Judge.

Scott J. Uricchio, Orlando, and Bill McCabe, Longwood, for Appellant.

Roger C. Simmons, Fort Lauderdale, for Appellees.

PER CURIAM.

The claimant in this workers' compensation appeal challenges the dismissal of her April 21, 2006, petition for benefits as barred by the statute of limitations. She filed this petition shortly after the E/C moved to dismiss two prior petitions for

benefits for failure to prosecute, and did so solely in an effort to avoid an application of the statute of limitations, which, but for the pending petitions, expired in October, 2005. The JCC dismissed the prior petitions for failure to prosecute and determined that the underlying petition was filed too late to toll the statute of limitations. We agree. See Chrysler Leasing Corp. v. Passacantilli, 259 So. 2d 1 (Fla. 1972).

AFFIRMED.

ALLEN, DAVIS, and HAWKES, JJ., CONCUR.