

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1652-16T3

JERSEY CENTRAL POWER & LIGHT
COMPANY,

Plaintiff-Appellant,

v.

TOWNSHIP¹ OF PHILLIPSBURG,
PHILLIPSBURG EMERGENCY SQUAD,
and ASHLEY M. CRAWFORD,

Defendants-Respondents.

Argued telephonically February 27, 2018 –
Decided March 12, 2018

Before Judges Sabatino, Ostrer and Rose.

On appeal from Superior Court of New Jersey,
Law Division, Special Civil Part, Warren
County, Docket No. DC-000550-16.

Daniel F. Sahin argued the cause for appellant
(Daniel F. Sahin, PC, attorney; Daniel F.
Sahin and Mark B. Watson, on the briefs).

John J. Abromitis argued the cause for
respondents (Lavery, Selvaggi, Abromitis &
Cohen, PC, attorneys; John J. Abromitis, on
the brief).

¹ The complaint erroneously names the Town of Phillipsburg as the
"Township".

PER CURIAM

This is a property damage case brought against two public entities. Plaintiff Jersey Central Power & Light Co. appeals the trial court's dismissal of its complaint for failure to serve a tort claims notice within the ninety-day period mandated by N.J.S.A. 59:8-8. The trial court deemed untimely the notice plaintiff mailed on the ninety-first day after its cause of action accrued. We agree, and affirm.

At 8:49 p.m. on December 24, 2014, an ambulance of the Phillipsburg Emergency Squad, a public entity, struck and damaged a utility pole owned by plaintiff. Plaintiff incurred expenses in repairing the pole. It decided to pursue a claim for property damage against the Squad, the Town of Phillipsburg, and the ambulance driver.

Plaintiff's staff mailed to the Squad a tort claims notice on March 25, 2015. That date of mailing was a Wednesday, ninety-one days after the ambulance struck the pole. After plaintiff filed suit in the Law Division, the Squad and the Town moved to dismiss the lawsuit for non-compliance with the notice provision of N.J.S.A. 59:8-8. The judge granted the motion, rejecting plaintiff's claim that the notice mailed on the ninety-first day after the accident was timely.

Although plaintiff argues that case law and court rules concerning time-counting² principles in other contexts support its position, the inescapable fact is that the notice served in this case was untimely, even if those authorities pertained. The cause of action plainly accrued on December 24, 2014, which was the date of the accident. Beauchamp v. Amedio, 164 N.J. 111, 117 (2000).

The time of day of the accident for purposes of accrual is irrelevant. For ease of simplicity and uniformity, the statute utilizes a common method for calculating the date by which the notice must be served regardless of the time of day the accident occurred. Hence, it makes no difference whether an accident occurs at 12:01 a.m. or 11:59 p.m. on the date of accrual.

The tort claims notice had to be filed and served no later than March 24, 2015, which was a non-holiday weekday. The mailing on March 25, 2015 was simply a day too late.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION

² See, e.g., Hein v. GM Construction Co., 330 N.J. Super. 282, 285 (App. Div. 2000); McCulloch v. Hopper, 47 N.J.L. 189, 190 (Sup. Ct. 1885); Rule 1:3-1.