

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

Case No. ADJ [REDACTED]

[REDACTED],

Applicant,

vs.

[REDACTED]; [REDACTED],
administered by [REDACTED] RISK SERVICES
GROUP,

Defendants.

FINDINGS AND ORDER

REYES & ASSOCIATES, APLC

By: JORGE H. REYES
Attorneys for Applicant

MATIAN LAW GROUP

By: MATTHEW GIULIANI
Attorneys for Defendants

An Application having been filed herein, all parties having appeared, and the above-entitled matter having been submitted, the **Honorable Gail E. Rentzer**, Workers' Compensation Administrative Law Judge, now finds and orders as follows:

ADMITTED FACTS


1. [REDACTED], born 8/21/1964, employed on or about 3/03/2016 as a set-up man at Anaheim, California, by Anaheim Precision, did not sustain injury arising out of and occurring in the course of employment to his low back.

ORDER

It is ordered that applicant takes nothing by virtue of his claim.

All other issues are moot, or they remain off calendar.

DATE: August 3, 2017



Gail Rentzer
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

Served by mail on all parties listed on the
Official Address Record on the above date.

BY: 

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

CASE NUMBER: ADJ [REDACTED]

[REDACTED]

-vs.-

[REDACTED];

[REDACTED],
ADMINISTERED BY [REDACTED]
RISK SERVICES GROUP

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE:

GAIL E. RENTZER

DATE OF INJURY:

MARCH 3, 2016

OPINION ON DECISION

INJURY: AOE/COE

The issue raised is that of injury arising out of and occurring in the course of employment for the date of 3/03/2016.

The Court heard testimony and was provided evidence by the parties. The Court considered the admitted evidence, the testimony, credibility and demeanor of the applicant as well as that of defense witness Jerry Long.

Applicant worked for Anaheim Precision. Applicant worked as a set-up man. A set-up man makes sheet metal parts for planes and helicopters. He operated machines if necessary.

Applicant testified that in March of 2016 he was working on a machine, which is depicted in Exhibit B3. He was moving a part, which is a fixer, and he slipped on the steps and almost fell. He felt pain in his low back.

Applicant was referred to Exhibit 6. He testified he was using the part depicted in Exhibit 6, Picture 2, which is the type of part he was making on the day he was injured, the circular part. *5/02/2017 Summary of Evidence, page 4, lines 23 to 25.*

Jerry long testified for the defense. He is the shop manager for Anaheim Precision. He testified as follows:

“Mr. Long stated he was somewhat confused how applicant’s injuries occurred as he had an opportunity to read the applicant’s testimony on the Summary of Evidence, and he was confused on how the injury occurred. He referred to Exhibit 6, which is the picture

of the circular machine part. This machine part was manufactured in June, and applicant claimed injury in March, so if applicant testified he was injured on the circular machine, he does not believe he could have injured himself on the circular part because it wasn't manufactured in March." *6/21/2017 Summary of Evidence, page 6, lines 20 to 25.*

Applicant testified he went to the doctor in March of 2016 because something happened to him at work.

Exhibit 1 is a report from a physician assistant, Scott McQueen, dated 4/23/2016. He notes low back pain, X-ray, and a return visit in two weeks. There is no mention of a work-related injury.

There is an x-ray report dated 5/02/2016 which shows a normal lumbar spine study. This was sent to Scott McQueen, M.D., on 4/30/2016.

Exhibit 5 is a comprehensive report from Dr. Goubran dated 9/28/2016. There is a "History of Injury" on page 2 which states:

"The above-named patient states that on March 3, 2016, he was involved in a work-related accident as a result of which he sustained injuries to his low back. The patient states that on the day of the injury, he was standing on a stool, trying to bring down an airplane part from a machine, weighing approximately 100lbs., when he felt a sharp pain in his low back."

This is a different mechanism of injury than he testified to at trial when he stated he misstepped carrying a fixer and injured his back.

Applicant never stopped working from 3/3/2016 to 9/18/2016, when he was called into the office by his supervisors when they were notified by applicant's attorneys he had filed a workers' compensation claim. Applicant stated he stopped working because Dr. Galal gave him five weeks off on disability. Applicant has not returned to work since this time as he testified his back has gotten worse over time.

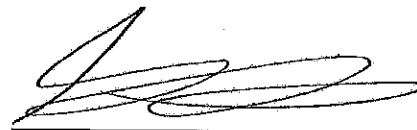
Jerry Long, the shop manager, testified that there was an office policy, if anything weighed over 50 lbs., two people were supposed to lift it. He was not aware of applicant lifting heavier pieces of aluminum.

After a review of all the admissible medical and documentary evidence as well as to the non-credible testimony of applicant as to the cause of his claimed injury and the credible testimony of defense witness Jerry Long, it is found applicant failed to sustain his evidentiary burden of proving he sustained an injury to his low back on 3/03/2016.

OTHE ISSUES

All other issues are rendered moot or remain off calendar by the finding of no injury arising out of and occurring in the course of employment.

DATE: August 3, 2017



Gail Rentzer

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

08-03-2017

PROOF OF SERVICE
FINDINGS & ORDER AND OPINION ON DECISION

Case Number: ADJ [REDACTED]

[REDACTED] Injured Worker, [REDACTED]

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