

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

PRIORITY KSE

CASE NUMBER: ADJ7844358

JEFFREY JENKINS

-vs.-

MAY TRUCKING CO;
GREAT WEST SOUTH
SIOUX CITY;

WORKERS' COMPENSATION JUDGE:
DATE OF INJURY:

Jeffrey J. Bruflat
July 4, 2010

OPINION ON DECISION

INJURY AOE/COE

There is no question that medical evidence of industrial injury is necessary for an applicant to sustain his burden of proof. This medical evidence must be substantial. The term substantial means evidence "...which, if true, has probative force on the issues. It is more than a mere scintilla, and means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It must be reasonable in nature, credible and of solid value." Teitelbaum v. WCAB (1997) 62 CCC 1527. The courts have specifically found that a medical opinion based on an inaccurate history cannot constitute substantial evidence. Heggin v. WCAB (1971) 36 CCC 93. In the present case, the applicant is attempting to prove injury AOE/COE based on the medical reporting of Dr. Schwarz. Applicant admitted that Dr. Schwarz did not have nor review any of applicant's prior medical records in the preparation of his reports. The applicant, in fact, had a substantial prior history of injury to the same part of his body in a prior claim. Reviewing the prior records and having an accurate medical history are critical elements in making the determination of causation of injury. Since these reports are not substantial medical evidence, the applicant failed in his burden of proof on injury AOE/COE.

Moreover, this trier of fact did not find the applicant to be a credible witness. The applicant, when confronted with a prior claim involving the same part of his body as alleged in the current claim, not only denied the prior settlement but he even denied his own signature was on the Compromise and Release. There were also substantial inconsistencies in how the injury was reported. Applicant claimed he reported the injury to the employer when it happened. The defense witness, who was deemed to be credible, denied this allegation. She personally interviewed the applicant and had even driven him to a medical appointment. Based upon the more credible evidence, it is found that the injury was not reported as alleged by the applicant. In any case, this trier of fact has determined that the applicant has not presented substantial medical evidence to meet his burden of proving injury AOE/COE. It is found that the applicant did not in fact sustain injuries to his back and left ankle arising out of and occurring in the course of employment on July 4, 2010.

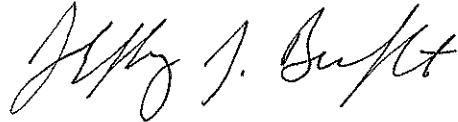
LIENS:

All liens not awarded as medical-legal are denied. Jurisdiction is reserved over medical-legal liens.

ALL OTHER ISSUES

All other issues are rendered moot by the finding of no injury arising out of and in the course of employment. There no funds from which to award attorney's fees.

DATE: March 1, 2013



Jeffrey J. Bruflat

WORKERS' COMPENSATION JUDGE

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

PRIORITY

JEFFREY JENKINS,

Applicant,

vs.

**MAY TRUCKING CO;
GREAT WEST SOUTH SIOUX CITY;**

Defendants.

Case No. ADJ7844358
Long Beach District Office

FINDINGS AND ORDER

Jeffrey Jenkins, Applicant.
Ozurovich & Schwartz by Michael A. Ozurovich, Attorney at Law
Attorneys for Applicant.
Bradford & Barthel, LLP by Rosa M. Sanchez-Ervin, Attorney at Law
Attorneys for Defendants.

An application having been filed herein, all parties having appeared, and the matter having been regularly submitted for decision, the Honorable Jeffrey J. Bruflat, Workers' Compensation Judge, makes his Findings and Orders as follows:

FINDINGS OF FACT

1. Jeffrey Jenkins, born on June 18, 1966, while employed on July 4, 2010, as a truck driver at Lake Shasta/Susandale, California, by May Trucking Company, whose workers' compensation insurance carrier was Great West Casualty Company, did not sustain injuries arising out of and occurring in the course of employment to his back and left ankle.

2. All liens not awarded as medical-legal are denied. Jurisdiction is reserved over medical-legal liens.

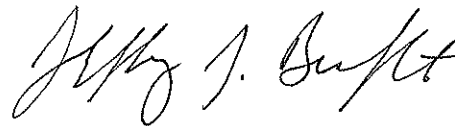
3. All other issues are rendered moot by the finding of no injury arising out of and occurring in the course of employment. There are no funds from which to award attorney's fees.

ORDER

IT IS ORDERED as follows:

- a) That the applicant take nothing by way of his claim herein.
- b) That all liens not awarded as medical-legal are denied. Jurisdiction is reserved over medical-legal liens.

DATE: March 1, 2013



Jeffrey J. Bruflat
WORKERS' COMPENSATION JUDGE

Served by mail on all parties listed on the attached
Official Address record/Proof of Service

BY: *Agatha Magana*
DATE: 03.01.2013

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

PRIORITY

03-01-2013

PROOF OF SERVICE OF FINDINGS & ORDER

(OFFICIAL ADDRESS RECORD)

Case Number: ADJ7844358

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By: *Agatha Magana*

Date: March 1, 2013