

ARM

STATE OF CALIFORNIA

WORKERS' COMPENSATION APPEALS BOARD

Ernesto Herrera,
Applicant,
 vs.
 Cal Ag Management DBA Cream of the
 Crop AG Service, Inc., and Cal Farm
 Management, legally self-insured,
 administered by Intercare,
Defendants.

Case No. ADJ9763306

FINDINGS OF FACT
AND ORDER

The above-entitled matter having been heard by and submitted for decision to Thomas J. Heslin, Workers' Compensation Administrative Law Judge, Findings of Fact and Order are made as follows:

FINDINGS OF FACT

- 1) Applicant, Ernesto Herrera, did not sustain industrial cumulative trauma to his head, back, bilateral shoulders and bilateral feet during the period of alleged cumulative trauma 1/1/2013 - 5/3/2014 while employed by defendant;

ORDER

IT IS HEREBY ORDERED THAT: It is ordered that applicant takes nothing as a result of his claim of industrial injury during the period 1/1/2013 - 5/3/2014.

OPINION ON DECISION

This matter proceeded to trial on 1/25/2016. The Court has considered the testimony of the applicant and the medical report of PQME Jason Chiu M.D. 5/14/2015 (Def, Exhibit #A) which the Court finds to constitute substantial medical evidence.

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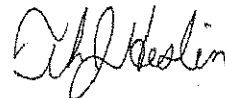
WORKERS' COMPENSATION APPEALS BOARD

It is noted that Dr. Chiu found that applicant had inconsistent complaints of pain and that his response during physical examination was not credible. It is particularly noted that applicant withdrew every time the doctor attempted to touch his back, no matter where on the back the touch was directed; other parts of the examination were also questionable.

The Court also notes applicant's testimony on cross and redirect examination. On cross examination, applicant admitted to having been convicted of a felony in 2007. In addition, applicant was arrested on a theft warrant in September 2014. The warrant and arrest resulted from applicant stealing a women's purse that he and his wife found at a casino. "She liked it and he grabbed the purse and gave it to his wife and they left. The purse had money in it." (MOH/Summary page 7 lines 22-25)

The above theft and the questionable conduct during the physical examination by Dr. Chiu raise serious questions as to applicant's credibility and truthfulness. It is apparent that if applicant sees an opportunity for personal profit he will do whatever it takes. Applicant's credibility is questionable at best.

Dated: 3/7/2016



Thomas J. Heslin
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

Filed and Served by mail on parties
as listed on the Official Address Record.

By: *C. Cook* 03/09/2016

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

03-09-2016

OFFICIAL ADDRESS RECORD
FINDINGS OF FACT AND ORDER

Case Number: ADJ9763306

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Served on all parties by C. Cook

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