

COPY

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD
SANTA ANA, CALIFORNIA

Case No. ANA 0337400

MARTIN ONTIVEROS

Applicant,

vs.

NORTHROP GRUMMAN; PSI adm. by
GALLAGHER BASSETT SERVICES

Defendant

FINDINGS and ORDER

The matter having been heard and regularly submitted for decision, the Honorable Norman F. Delaterre, Workers' Compensation Administrative Law Judge, Finds and Orders as follows:


FINDINGS OF FACT

1. Martin Ontiveros, born 12-28-97, while employed within the State of California, as a structural, mechanic during the period of 9-1-97 through 9-1-98 by Northrup Grumman, permissibly self-insured and administered by Gallagher Bassett Services, sustained injury arising out of and in the course of employment to his right wrist.
2. The applicant's condition following injury is permanent and stationary. He is entitled to no further temporary total disability indemnity from the employer.
3. There is no need for further medical treatment to cure or relieve him from the effects of said injury.

ORDER

IT IS ORDERED that the applicant TAKE NOTHING by way of his request for Expedited Hearing and Decision dated 8-24-00.

All other issues are and remain off calendar.



 NORMAN F. DELATERRE
 WORKERS' COMPENSATION ADMIN. LAW JUDGE

Date: 9-22-00
 Filed and Served by mail
 On parties as shown on
 Official Address Record.
 By: ug ✓

MARTIN ONTIVEROS

vs.

NORTHROP GRUMMAN; PSI admin.
by GALLAGHER BASSETT SERVICES

WORKERS' COMPENSATION
ADMIN. LAW JUDGE (WCJ):

NORMAN F. DELATERRE

OPINION ON DECISION

INTRODUCTION

The applicant, Martin Ontiveros, born 12-28-77, while employed during the period of 9-1-97 through 9-1-98, as a structural mechanic at Hawthorne, California, by Northrup Grumman sustained injury arising out of and in the course of his employment to his right wrist.

At the time of the injury the employer was permissibly self-insured. The employer's workers' compensation program was administered by Gallagher Bassett.

At the time of injury the applicant's earnings were \$544.59 per week, warranting a temporary disability rate of \$363.08 per week. The employer has paid temporary total disability indemnity as follows:

1. 12-7-99 through 3-29-00 at \$363.08 per week; and
2. 4-11-00 through 8-12-00 at \$363.08 per week.

The applicant was employed by Northrup Grumman from August 1997 (date of hire - he began working during the first week of September 1997) until April 1999 when he was laid off. The applicant's last day of actual work for the employer was toward the end of February 1999, according to the applicant's testimony.

At the present time there is a dispute as to the applicant's disability status. The applicant claims that he remains temporarily totally disabled. The defendant contends that the applicant's condition, relative to the injury herein, is permanent and stationary with insignificant residual permanent disability.

The matter was set before the undersigned WCJ for expedited hearing on the issues of the applicant's entitlement to temporary disability indemnity from 8-13-00 to the present and continuing, and need for further medical treatment. After considering

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the testimony of the applicant and the medical reports that were filed and served by the parties, the undersigned finds as follows on the issues submitted

DISABILITY:

The Court finds that the applicant is no longer temporarily totally disabled from the injury herein. His condition is permanent and stationary. In making this finding, the Court relies on the opinion of Dr. Steven Ma, as set forth in his report of 6-21-00.

The Court recognizes that Dr. Ma's opinion on this issue differs with that of the treating physician, Dr. Steven Sadler, who finds that the applicant remains temporarily totally disabled. This WCJ does not find Dr. Sadler's opinion to be persuasive. First of all, Dr. Sadler states in his 5-23-00, 6-27-00 and 7-25-00 reports that the applicant's condition remains "about the same." This is after several months of physical therapy and a normal EMG and Nerve conduction study in February 2000. This indicates to the Court that the applicant's condition stabilized for a significant period.

Secondly, the applicant testified that the physical therapy treatment rendered by Dr. Sadler provides only temporary relief; a period of one-half hour to one hour. Said testimony indicates to the Court that the applicant's condition, regarding this injury, is not improving. This further leads the Court to conclude that the applicant's condition is permanent and stationary.

The applicant sustained an injury to his right hand that was either due to a ganglion cyst or a right hand/wrist strain. The applicant has not worked for this employer, nor anyone else, since late February 1999, and lost no compensable time from work prior to his lay-off. As reported by Dr. Ma, the ganglion cyst is no longer present. Other than subjective complaints of pain, neither Dr. Ma nor Dr. Sadler report any objective findings that would explain the presence of said pain.

The applicant is now 1.5 years post employment. It is reasonable that any strain type of injury to the right hand and wrist would have reached a permanent and stationary status during this period of time.

The Court finds that Dr. Ma's better reasoned findings overcome the presumption of Labor Code §4062.9 that is afforded to Dr. Sadler's findings. For the reasons set forth above, this WCJ finds Dr. Ma's findings and conclusions to be the more persuasive relative to the applicant's present disability status.

No findings is made with respect to the applicant's permanent disability as that issue is not before the Court at this time.

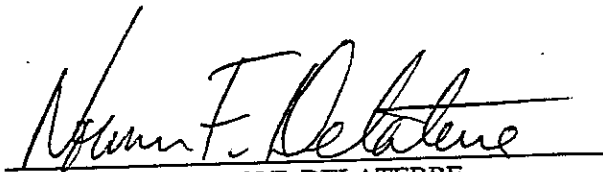
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MEDICAL TREATMENT:

Relying on the opinion of Dr. Ma, the applicant does not require any further medical treatment to relieve or cure him from the effects of this injury. The applicant testified that the treatment rendered by Dr. Sadler provides only transitory relief.

All other issues are and remain off calendar.

Date: 9-22-00
NFD/ug ✓


NORMAN F. DELATERRE
WORKERS' COMPENSATION ADMIN. LAW JUDGE