

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

TCH ENO

Case No. VNO 307244

ROGELIO GARCIA,

Applicant

vs.

ST. JOHN'S KNIT INC.;
AMERICAN INSURANCE

Defendant.

FINDING

Anju

Hinden & Grueskin,
by Anthony Perez, Hearing Rep.,
for C.I.O.T. (various lien claimants),
Law Offices of Richard Phillips,
by Andrew McLaughlin, Hearing Rep.,
for Lien Claimant Premier Medical,
Lien Claimant Functional Restoration,
by Shahpoor Ashorzadeh

The above-entitled matter having been heard and regularly submitted, the Honorable Harvey Stark, Workers' Compensation Judge, now makes his decision as follows:

FINDINGS

1. Applicant's claim of injury is fraudulent.
2. Applicant did not sustain injury arising out of or occurring in the course of employment.

ORDER

All lien claims are ordered, and they hereby are disallowed.

Dated: March 28, 1996



HARVEY STARK
WORKERS' COMPENSATION JUDGE

A PETITION FOR RECONSIDERATION FROM THIS DECISION SHALL
BE FILED ONLY AT THE VAN NUYS DISTRICT OFFICE OF THE
WORKERS' COMPENSATION APPEALS BOARD.

Filed and Served by mail on : 3-28-96
On all parties on the
Official Address Record.
By: *E. Hernandez*
E. Hernandez

ROGELIO GARCIA
VNO 307066

CASE NO. VNO VNO 307066

ROGELIO GARCIA

-vs-

ST. JOHN KNITS, INC.;
AMERICAN INSURANCE

DATED: March 28, 1996

Judge: HARVEY STARK

MEMORANDUM ON OPINION

Based on all the evidence, decision is issuing as follows:

I find applicant has made a fraudulent claim of injury.

Applicant testified that he filed his claim because he was having a lot of pressure from his supervisor. He was assigned all of the work and did all of the work. He felt he was unjustly fired, and filed his claim only after he was fired. Applicant further testified he had a specific injury to his neck and back while lifting a spreading machine at work and that he reported this injury to his supervisor Marcela Castro Valdovinos. He continued to perform his regular work and missed no time from work after his injury, until he was fired.

Applicant's supervisor Marcela Castro Valdovinos testified she was applicant's supervisor, that she sat ten feet away from him, that she talked to him 4 to 5 times a day, and that applicant never reported an injury to her. She further testified that no co-workers ever told her applicant was injured. Applicant never reported any neck or back problems or appeared to be in any distress. Applicant was fired for insubordination.

I find applicant was not a credible witness concerning his claim of injury. Applicant felt mistreated and unjustly fired. I rely on the testimony of Mrs. Valdovinos that applicant never reported an injury nor showed any signs of injury. It was only after he was fired that applicant filed a claim of injury.

From all of this I conclude that applicant filed a fraudulent claim in order to retaliate against his employer for his perceived mistreatment while employed, for his perceived unjust firing, and in order to obtain monetary again.

ROGELIO GARCIA
VNO 307066

All liens whether for treatment or for medical-legal costs are therefore disallowed.

There is no presumption of injury under Labor Code Section 5402 since this is a fraudulent claim of injury made by applicant.

All other issues are rendered moot by the Courts findings.

Harvey Stark

HARVEY STARK
WORKERS' COMPENSATION JUDGE

HS:eh

*See attached
page listing
lien claims*

ROGELIO GARCIA
VNO 307066

Lien Claims Rocelia Garcia

BrantBAR Entites total over 18,000

Dr. Kundergi
Dr. Kaplan
Dr. Bedonak
Dr. Handelman
Oceano View Audiology
Occupational Optometry Center
Underlying International

Other Lien Claims

J. B. F. Medical Diagnostic	2000.00
E. D. D	13,320.00
Functional Restraints	600.00
SIN DOGAR Medical Clinic	1065.00
A. B. S. D. I. L. Mgmt INC	6690.00
Mermon Oaks Pharmacy	84.25
Premier Medical Evaluation	2,318.00
Health Care East	2,750.00
PX Dry Store	809.00
maria Palacio	338.00
Marta Baca e Associates	95.00

TOTAL over 43,071 
