

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case Nos. AHM 023407 MF
AHM 027024

ANTHONY DELGADO,

Applicant

vs.

SUPERIOR COMMUNICATIONS
CONSTRUCTION, INC.;
REPUBLIC INDEMNITY COMPANY OF
AMERICA,

Defendants.

FINDINGS AND ORDER

- Law Offices of Roger T. Murphy, by Roger T. Murphy, attorney for Applicant
- Law Offices of Kegel, Tobin & Truce, by Fred R. Stevens, Esq., attorneys for defendants

Applications having been filed herein; and the matter having been regularly submitted, the Honorable JERRE D. VAN GORDER, Workers Compensation Judge, now finds and orders as follows:

FINDINGS OF FACT

1. Applicant ANTHONY DELGADO, born 10/23/57, was employed at Newport Beach, California on February 7th, 1992 and again on June 15th 1992 as a Refuse Worker II (Group 1) by the City of Newport Beach.
2. Applicant did not sustain injury to his left upper extremity and back arising out of and occurring in the course of his employment on 2/7/92 and again on 6/15/92 as alleged herein..

ORDER

IT IS HEREBY ORDERED that applicant take nothing herein.

DATED AT ANAHEIM, CALIFORNIA
JANUARY 26, 1995


JERRE D. VAN GORDER
WORKERS' COMPENSATION JUDGE

Service by mail on parties checked on the
official address record effected on above
date. By: *Elizabeth T. Pla*

STATE OF CALIFORNIA
WORKER'S COMPENSATION APPEALS BOARD

CASE NOS.
AHM 023407 MF, AHM 027024

ANTHONY DELGADO,

v

CITY OF NEWPORT BEACH;
HERTZ CLAIMS MANAGEMENT,

WORKERS' COMPENSATION JUDGE:
JERRE D. VAN GORDER

DATE: January 27, 1995

INJURY: 6/15/92

OPINION ON DECISION

At the heart of every case lies the threshold issue of applicant's credibility. It is on this character trait that an applicant's case will stand or fall. This is particularly true herein since the circumstances create questions of fact and performance, credibility. Was there an injury while surfing versus one on the job? When did the job-injury occur? or were there several? Are witnesses telling the truth or are they prejudiced for reasons unrelated to the case itself. Are films of the applicant really necessary and how do the Blue Angels fly so low?

Applicant was an exceptionally poor witness on his own behalf. His version of events regarding the inadvertent comment by his child to his supervisor was unpersuasive. The detailed testimony concerning the surfing trip by the witnesses were convincing in that the claimed injury more likely occurred on that trip when compared to applicant's story of a continuous trauma exposure, or a minor car accident or on the last day at work before the surfing trip. Even more unconvincing was applicant's testimony about his neighbors and their various and allegedly nefarious actions against him. No further belaboring of the point is needed. The court did not find applicant to be a credible witness. It is found that applicant did not sustain any type of claimed bodily injury during or on any claimed time or period of time herein while in the course and scope of his employment by defendant. Applicant is to take nothing herein. It is further found that applicant has given a completely erroneous, inaccurate and untruthful history of his claimed injuries and his actions in this regard bar all liens of record.

The record reflects that the parties agreed to consult further on defendant's issue of restitution (See Minutes of Hearing, 7/22/94, p. 3) and the issue is thus deferred.

There is no award of attorney's fees.


JERRE D. VAN GORDER
WORKERS' COMPENSATION JUDGE

JVG:ep