

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 250593

JOSE F. DOMINGUEZ,

Applicant

vs.

FINDINGS AND ORDER

ARB, INC.,
SELF-INSURED,

Defendants.

JOSE MARIANO CASTILLO, Attorney for Applicant

KEGEL, TOBIN & TRUCE, Attorneys for Defendant


An Application having been filed herein, all parties having appeared, and the matter having been regularly submitted for decision, the Honorable CHARLES J. WILLIAMS, Workers' Compensation Judge, makes his Findings and Order as follows:

FINDINGS OF FACT

1. Applicant did not sustain an industrial injury arising out of and occurring in the course of his employment as alleged herein.
2. The liens of La Palma Hospital, Veterans Administration and So-Low Drugs, Inc., are disallowed in full.
3. All other issues are moot.

ORDER

IT IS ORDERED that Applicant take nothing.



Charles J. Williams
Workers' Compensation Judge

Long Beach, California
Served by mail on the parties listed on the
Official Address Record
Dated:

JAN 17 1996

By 

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STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 250593

JOSE F. DOMINGUEZ

vs.

ARB, INC.,
SELF-INSURED

Date of Injury: 12/26/91 - 12/27/91

OPINION ON DECISION

INJURY:

The Applicant has alleged that he has sustained an injury to his lungs due to working in a windstorm on December 26, and 27 of 1991 in the open for the Defendant. Applicant rests his position on a letter from Nancy E. Eugenio, M.D., dated July 7, 1992 which states that the Applicant has a history of exposure to a sandstorm in the Bakersfield area in the latter part of December 1991. The cause of his illness, in addition to serologic titers for Cocci and his remarkable clinical improvement after treatment with Amphotericin which is the drug of choice for Cocci, all point to the conclusion that he developed an episode of Coccidioidomycosis after being in an edemic area for this disease, especially during a sandstorm.

The statements of Dr. Eugenio are conclusions based upon plausible facts. Unfortunately, the medical workup for this condition did not confirm the diagnosis offered by Dr. Eugenio. The Defendant's report prepared by Sanford L. Miller, M.D., dated June 16, 1993 is much more thorough and does offer information that tests for the Cocci fungus were negative. Further, Dr. Miller points out that once an individual has had an infection from this fungus, such as Applicant has admitted to and which is confirmed by the medical records of 1985 from the VA Hospital, they are considered to be immune from further disease involvement. This conclusion is supported by the American Lung Association, reports for the American Public Health Association and also by the Attorney's Text Book of Medicine. Under the circumstances, I do not feel that the Applicant has met his burden of proving the cause of his injury. On this basis, no injury is found and no temporary disability, permanent disability, self-procured medical treatment, or need for further medical treatment will be awarded.

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LIENS:

As the condition complained of has been found non-industrial, the liens of La Palma Hospital; Veterans Administration and So-Low Drugs, Inc., which all relate to treatment are disallowed in full.

ATTORNEY FEES:

As no injury has been found, attorney fees are moot.



Charles J. Williams
Workers' Compensation Judg

CJW/lm