

STATE OF CALIFORNIA  
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 235036

DONZETTA EDWARDS,

*Applicant*

vs.

MONTGOMERY WARD;  
NATIONAL UNION FIRE INSURANCE  
COMPANY,

*Defendants.*

**Findings and Order**

Williams, Beck & Forbes, by Vivian A. Riddick,  
Attorneys for Applicant;

Kegel, Tobin & Truce, by Michael A. Ingler,  
Attorneys for Defendant;

An application having been filed herein; all parties having appeared and the matter having been regularly submitted, the Honorable MICHAEL TOMPKINS, Workers' Compensation Judge, finds and orders as follows:

**FINDINGS OF FACT**

1. DONZETTA EDWARDS, applicant, born 2/5/95, while employed as a sales associate, at Torrance, California, by MONTGOMERY WARD, insured by NATIONAL UNION FIRE INSURANCE COMPANY, did not sustain injury arising out of and occurring in the course of employment to her nerves, headache, stomach, and back for the period August 14, 1991 through August 14, 1992.

JUN 27 1995

2. All lien claims are off calendar. The Board retains jurisdiction over lien claims.

3. All other issues are moot.

\*\*\* ORDER \*\*\*

IT IS ORDERED that the applicant take nothing further.

Dated: JUN 26 1995  
Service by mail on all parties on  
the Official Address Record.  
By: Lumen Demas

  
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MICHAEL TOMPKINS  
WORKERS' COMPENSATION JUDGE  
Long Beach

State of California  
DIVISION OF WORKERS' COMPENSATION

Case No: LBO 235036

DONZETTA EDWARDS

vs.

MONTGOMERY WARD;  
NATIONAL UNION FIRE  
INSURANCE,

Injury Date: 8/14/91  
thru 8/14/92

Workers' Compensation Judge:  
Date:

MICHAEL TOMPKINS  
June 26, 1995

Williams, Beck & Forbes, by Vivian A. Riddick,  
Attorneys for Applicant;

Kegel, Tobin & Truce, by Michael A. Ingler,  
Attorneys for Defendant;

OPINION ON DECISION

Injury AOE/COE:

It is found that the applicant did not sustain an injury arising out of employment and during the course of employment from August 14, 1991 through August 14, 1992, to her nerves, headache, stomach, and back.

This finding is substantiated by the testimony of the witnesses and the medical reports of Dr. William Sullivan dated 1/22/93 and the medical reports of Dr. Harry Marinow dated 12/7/93 with attached letter dated 12/9/93.

The applicant testified over a period of three days. She stated that at Montgomery Ward in Torrance where she worked as a sales associate that customers were physically carrying merchandise out of the store without paying for it. She felt responsible to prevent these thefts. She also felt that the store security was not responsive in these situations.

The applicant recalls an incident where a person walked out of the store with a microwave oven. Also, the applicant stated that she

would try to call security but couldn't get them on the phone. She believed there were times when no security was present.

The applicant told the security manager that she thought there was not enough security personnel.

There was another incident when a person stole three VCR's from the store. In so doing the person turned around and struck applicant with the boxes as he left the store.

Applicant felt that if security were present it would not have happened.

On another occasion the applicant observed a person or persons acting suspiciously and called security, and security was instrumental in apprehending a man who later stole a glass cabinet. However, this incident upset the applicant who felt that she should not have to call security as many times as she did to get help.

These and similar circumstances caused applicant upset and she sought treatment at Kaiser in 1992 for nausea, headache and lack of sleep.

The applicant continued to work.

Later, she was charged with ringing up a sale incorrectly and was placed on suspension after which she was terminated for misconduct.

Following termination applicant treated with Dr. Edwards, a chiropractor who then referred her to Dr. St. Hill who prescribed blood pressure medication for her hypertension. Thereafter, she visited orthopedic surgeons and psychiatrists among others.

The applicant did not file a claim for workers compensation benefits until after her termination.

In connection with the allegation that applicant did not ring a sale correctly, she testified as to the procedure she followed. She

related the procedure she used to personnel during an investigation and the company concluded that a sale in the amount of about \$3,000.00 was made on a customer's charge card and that the bank did not accept the transaction and charged back the sale to the company. The company also concluded that the charge back was due to the fact that the applicant used the wrong procedure.

During the investigations the applicant states that she received threats of jail and not being able to see her children again. These threats were allegedly made by Mr. Gladieux.

The applicant states that currently she is working in her own business as a child care provider and earns about \$500 - \$1,500.00 a month, caring for numerous children.

The defense presented a witness, Mr. Riley, who explained the cash register transaction procedure in great detail. This witness is most credible and after hearing his testimony I conclude that the bank would not have charged back the transaction in question if those procedures outlined were followed by applicant.

The defense also presented Edward Vorgollen and Melva Jacqueline Payne as witnesses. These two were present with the applicant during the investigation interview regarding the cash register transaction.

Ms. Payne testified that she was present at all times during the interview and that Mr. Yorgollen never made threats to applicant. This testimony was most credible on the issue.

In connection with the medical evidence the medical reports of Dr. Harry Marinow and Dr. William Sullivan are the most credible and persuasive.

Dr. Marinow states in his orthopedic report dated 12/7/93 that there were no periods of disability either temporary or permanent relative to the applicant's employment at Montgomery Ward.

The psychiatric report of Dr. Sullivan dated 1/22/93 recites that there was no psychiatric illness which arose out of or during the course of Mrs. Edwards' work at Montgomery Ward. There was no aggravation or exacerbation of a previously existing psychiatric illness in the workplace.

Lien Claims:

All lien claims are ordered taken off calendar. The Board retains jurisdiction over lien claims.

No evidence was presented regarding any lien claimant.

All other issues are moot.

  
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MICHAEL TOMPKINS  
Workers' Compensation Judge

JL/id

THE SIGNATURE GROUP  
MONTGOMERY WARD CLAIMS DEPARTMENT  
200 North Martingale Road, 7-S  
Schaumburg, Illinois 60173-2096  
Telefax: (708)-605-1894

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July 10, 1995

Mr. Michael A. Ingler, Esq.  
Kegel, Tobin & Truce  
330 Golden Shore Drive  
Suite 150  
Long Beach, CA 90802

RE: Donzetta Edwards vs. Montgomery Ward  
D/Loss: 3/92, CT  
Your File: 651/B1124  
Sedgwick File: 92002995

Dear Mr. Ingler:

On behalf of Montgomery Ward & Co., Incorporated I would like to extend our sincere appreciation for your aggressive case management and defense of the above-captioned matter which resulted in a "TAKE-NOTHING".

Thanks for a job well done!

Cordially,



Dwayne Jackson  
Regional Claims Manager  
Montgomery Ward Claims Dept.  
708/605-4806

cc: W. Joseph Truce, Esq. ✓  
Kegel, Tobin & Truce  
330 Golden Shore Drive  
Suite 150  
Long Beach, CA 90802

Ron Giangiorgi

DJ/sn

JUL 13 1995