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STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case No. MON 230803

<p>MYISHA HALEY,</p> <p style="text-align: right;"><i>Applicant,</i></p> <p style="text-align: center;">v.</p> <p>COSTCO WHOLESALE, (Permissibly Self-Insured, Presidium, Incorporated, Third Party Administrator,)</p> <p style="text-align: right;"><i>Defendants.</i></p>

**FINDINGS, AWARD
AND ORDER**

Law Office of Jerry Petryha by: Jerry Petryha, Attorney for Applicant

Kegel, Tobin & Truce by: Steven M. Green, Attorneys for Defendant

An application having been filed herein; all parties having appeared and the matter having been regularly submitted, the **Honorable RAYMOND F. CORREIO**, Workers' Compensation Referee, finds, awards and orders as follows:

FINDINGS OF FACT

1. MYISHA HALEY, born December 21, 1978, while employed as a food service clerk, at Inglewood, California, on August 22, 1997, by Costco Wholesale, permissibly self-insured, whose Third Party Administrator was Presidium, Incorporated, did not sustain injury arising out of or occurring in the course of her employment to her right thumb.

2. Applicant actually, reasonably and necessarily incurred medical-legal costs for the the purposes of proving a contested claim in amounts to be adjusted by the parties or to be determined subsequently upon the filing of a petition and supporting documents.

3. Given the finding of no injury arising out of or occurring in the course of applicant's employment, any bills and liens related to unauthorized self-procured medical treatment are properly disallowed.

4. All other issues have been rendered moot.

AWARD

AWARD IS MADE in favor of **MYISHA HALEY** against **COSTCO WHOLESALE**, (Permissibly self-insured; Presidium Incorporated, third-party administrator) of:

(a) Reimbursement of medical-legal costs as provided in Finding No. 2.

ORDER

IT IS ORDERED, that applicant take nothing further.

Dated: _____

7/27/98

Served on the above date on parties listed on Official Address Record by:

J. Harpole

J. Harpole



RAYMOND F. CORREIO
Workers' Compensation Referee

Myisha Haley
MON 230803

CASE NUMBER: MON 230803

MYISHA HALEY v. COSTCO WHOLESALE;
(PERMISSIBLY SELF INSURED;
(PRESIDIUM, INCORPORATED;
THIRD PARTY ADMINISTRATOR)

REFEREE: RAYMOND F. CORREIO

DATE OF INJURY: 8/22/97

OPINION ON DECISION

INJURY ARISING OUT OF AND OCCURRING IN THE COURSE OF
EMPLOYMENT

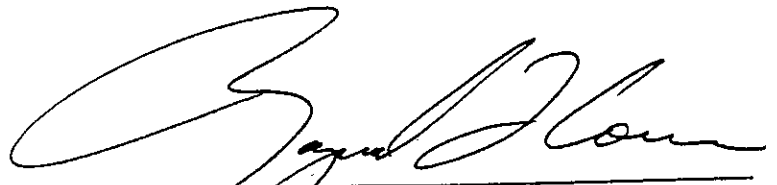
Taken as a whole, the testimony of the three (3) defense witnesses was more credible and plausible than applicant's testimony with respect to the facts and circumstances related to the alleged injury of August 22, 1997. Both on direct examination and under cross-examination applicant adamantly asserted that she immediately reported her alleged injury to one of her supervisors, Mr. Shareef Asadullah. She testified she reported the injury to Mr. Asadullah within a short period of time of the alleged injury. He testified that she never reported the injury to him. Applicant also testified that shortly after the alleged injury a part-time lead supervisor, Mr. Greg Harris, actually pulled her injured thumb making it feel better for a short period of time. However, Mr. Harris, on direct examination and under cross-examination, denied that he ever pulled the applicant's thumb nor did applicant report a work injury to him.


On cross-examination applicant denied any financial problems around the time of the alleged industrial injury of August 22, 1997. She also adamantly testified she was not told she would have to leave her aunt's house by the end of August. Defense witness, Krystal Bell, testified applicant told her she was being thrown out of her residence by her aunt. Also, under cross-examination applicant testified that when she was out on disability she never requested or asked her employer to return to work. However, Ms. Bell testified forthrightly that applicant called in when she was off on disability and asked to return to work. In fact, Ms. Bell testified that applicant told her she needed to return to work because she was being kicked out of her aunt's residence and needed money. Ms. Bell advised her to talk to a manager.

On direct examination, applicant testified the alleged injury to her right thumb occurred sometime during the afternoon of August 22, 1997. During her direct testimony she expressed no doubt whatsoever with respect to the date of injury. On cross-examination she testified she was "absolutely certain regarding the date of injury. It occurred on August 22, 1997." (Summary of Evidence, page 6) However, when confronted with a computerized time sheet printout which did not show her working on August 22, 1997, she still testified that August 22, 1997, was the date of her alleged injury. She then changed her testimony and indicated that the alleged injury perhaps did not happen on August 22, 1997, but on a day close to that date.

Again, the trier of fact, based on a preponderance of the credible evidence of record, finds no injury arising out of or occurring in the course of the applicant's employment.

Dated: 7/27/98


RAYMOND F. CORREIO
Workers' Compensation Referee

RFC/jh 

Myisha Haley
MON 230803