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STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
WORKERS' COMPENSATION APPEALS BOARD

CORRINE MANTINI,

Case No. ANA 351327

Applicant,

FINDINGS OF FACT
AWARD
And
ORDER

vs.

ST. JOSEPH HEALTH SYSTEMS, psi;
SPECIALTY RISK SERVICES,

Defendant.

An Application for Adjudication of Claim having been filed and the matter having been tried and duly submitted, the Honorable **NORMAN F. DELATERRE**, Workers' Compensation Administrative Law Judge, finds, awards, and orders as follows:

FINDINGS OF FACT

1. Corrine Mantini, born April 21, 1938, while employed within the State of California as a records clerk during the period of September 1, 2000 through October 25, 2000 by St. Joseph Health Systems, who was permissibly self-insured, did not sustain injury arising out of and in the course of her employment to her left leg and left knee.

2. The following issues are moot:

- a. The claim for temporary disability indemnity.
- b. The permanent and stationary date.
- c. Permanent disability indemnity and apportionment.
- d. Need for further medical treatment.
- e. Liability for self-procured medical treatment.

3. The applicant is entitled to payment by the defendant of that portion of the lien of Southern California Medical Associates which represents medical-legal costs that were necessary to assist the applicant in attempting to prove a contested claim.

4. The liens of the Employment Development Department and Michael Majdik are disallowed.

5. There is no source of benefit from which to award an attorney fee.

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AWARD

AWARD IS MADE in favor of **CORRINE MANTINI** against **ST. JOSEPH HEALTH SERVICES** of:

A. Medical-legal costs in accordance with paragraph 3 above.

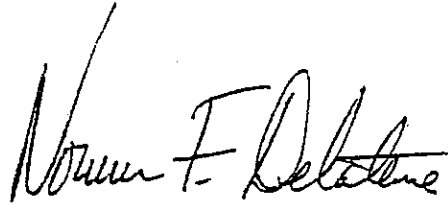
ORDER

IT IS ORDERED AS FOLLOWS:

1. That the applicant **TAKE NOTHING** by way of her Application for Adjudication of Claim filed herein.

2. That the liens of the Employment Development Department and Michael Majdik are disallowed.

Date: March 29, 2004



NORMAN F. DELATERRE
Workers' Compensation Judge

Served on all parties listed
On the Official Address Record.
On: March 29, 2004
By: H. Samonte *H Samonte*

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
WORKERS' COMPENSATION APPEALS BOARD

Case No. ANA 351327

Corrine Mantini

vs. St. Joseph's Health Systems, psi,
Specialty Risk Services,

Norman F. Delaterre,
Workers' Compensation Administrative Law Judge

Counsel: Allan Baker, Attorney for Applicant
Kegel, Tobin & Truce by Sandra Adams, Attorney for Defendant

OPINION ON DECISION

Introduction

The applicant, Corrine Mantini, born April 21, 1938, while employed during the period of September 1, 2000 through October 25, 2000 as a records clerk at Orange, California by St. Joseph's Health System, claims to have sustained injury arising out of and in the course of her employment to her left leg and left knee. At all times relevant herein, the employer was permissibly self-insured; its workers' compensation claims being administered by Specialty Risk Services.

The employer timely denied this claim. The employer has paid no compensation nor provided any medical treatment to the applicant.

The matter was set for trial before the undersigned Workers' Compensation Administrative Law Judge (WCJ). After considering the testimony of the witnesses, including the applicant, as well as the medical reports and records that were submitted by the parties, the Courts findings are set forth below.

Injury AOE/COE

The Court finds that the applicant has not sustained her burden of proof that she sustained an injury to her left leg and left knee which arose out of and occurred within the course of her employment as she claims. The applicant's testimony as to the mechanism of the injury and the reporting of it was not persuasive. The testimony of the employer's witnesses, especially the applicant's former direct supervisor, Nancy Heredia, contradicted the applicant's testimony which further caused the Court to question the

applicant's claim. The expert medical opinion regarding the occurrence of the claimed work injury is equivocal as well.

The applicant testified that she experienced the onset of left knee pain after working for the employer for a few months. The applicant claims that she first noticed the pain in September, 2000. The applicant claims that she had to work on her knees for about fifteen minutes out of each hour looking for files. She also claims that walking and retrieving patient records throughout the day caused the claimed left knee pain. The applicant testified that she told her supervisor, Nancy Heredia, about her knee pain but did not tell Ms. Heredia that the pain was due to her work duties.

A former co-worker, Loretta Sanchez, testified that she performed the same job duties as the applicant. Ms. Sanchez testified that she has never had to work on her hands and knees and never observed the applicant doing so. Ms. Sanchez further testified that the applicant told her that she, the applicant, injured her knee while working for a previous employer.

Ms. Heredia testified that the applicant never reported an injury to her knee while employed with St. Joseph Health Systems. Had the applicant done so, Ms. Heredia would have referred her to U.S. Healthworks, in accordance with the employer's established procedures. Ms. Heredia further testified that the applicant had stated that she hurt her knee "a long time ago." Ms. Heredia also testified that shortly before her last day of work, the applicant requested, for personal reasons, a shorter workday. Ms. Heredia denied the request and advised the applicant that she was needed for full time work.

Ruthann Dunivian, the employer's facilities manager and former human resources manager, testified that she had a conversation with the applicant a day or two before the applicant's last day of work, October 25, 2000. The applicant inquired as to whether or not her supervisor could deny the applicant a shorter work day. The witness advised the applicant that she could do so. The witness further testified that according to her notes of the conversation, the applicant stated that she, the applicant, hurt her knee outside of work and could not work a normal shift. This witness further testified that Ms. Heredia called her a few days later to advise that the applicant had missed three consecutive days of work and had not called in. Pursuant to the employer's policy, the applicant's employment was terminated.

Dorothy Collins, the employer's director of Employee Health Services, testified that she first had a discussion with the applicant on November 17, 2000. During the discussion the applicant indicated that she might file a workers' compensation claim. The witness mailed the applicant a claim form (DWC-1) and an information pamphlet.

The testimony of the employer's witnesses, which the Court finds credible, does not support the applicant's claim of injury. In fact, the testimony of Ms. Heredia, Ms. Dunivian and Ms. Sanchez directly contradict the applicant's claim. The applicant admits that she did not tell Ms. Sanchez that her knee pain was due to her occupational duties at

St. Joseph Health Systems. The Court is persuaded that the applicant did not sustain an injury to her left knee or left leg as she claims.

It is the Court's opinion that the existing medical evidence does not establish by a preponderance of the evidence that the claimed injury occurred. Dr. Stephen Ma correctly states that the history of the injury given by the applicant to various doctors is contradictory. Dr. Dorsey obtains a history of the injury occurring as a result of repetitive kneeling, stooping and bending. Dr. Morgan states that the claimed injury is the result of constant walking around the employer's facility. Further, Dr. Ma states that the applicant is not a reliable historian. The apparently denied prior workers' compensation claims when she was examined by Dr. Ma. Dr. Ma finds no objective findings consistent with the claimed injury. Dr. Ma notes early degenerative arthritis in the applicant's left knee.

In his supplemental report, Dr. Morgan acknowledges some inconsistencies in the applicant's history which he cannot reconcile. He defers to the trier of fact to do so. The Court finds that the opinion of Dr. Ma is the most credible and persuasive of the expert medical opinion that was presented in this case. This further persuades the Court that the applicant did not sustain an injury arising out of and in the course of her employment as she claims.

Since the Court finds that the applicant did not sustain a compensable injury, the following issues are moot:

1. The claim for temporary disability indemnity.
2. The permanent and stationary date.
3. Permanent disability indemnity and apportionment.
4. Need for further medical treatment.
5. Liability for self-procured medical treatment.


Liens

Since there is no finding of injury AOE/COE, the lien of the Employment Development Department is disallowed. The lien of Southern California Medical Associates is payable only to the extent of those charges that represent medical-legal costs. The applicant required these services to assist her in attempting to prove a contested claim. Any payment shall be in an amount to be adjusted by the parties. The defendant is entitled to credit for any prior payments on said lien.

Attorney Fees

Although the applicant received valuable assistance from her attorney in this matter, there is no source of awarded benefit from which to award an attorney fee. Since there is no attorney fee award made, the lien of the applicant's prior counsel, Michael Majdik is disallowed.

Date: March 29, 2004



Norman F. Delaterre, Workers'
Compensation Administrative Law Judge

Served on parties listed
On the Official Address Record.
On: March 29, 2004
By: H. Samonte *H Samonte*