

STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD  
SANTA ANA, CALIFORNIA

MYRON SIPE,

*Applicant,*

vs.

GENUINE PARTS  
COMPANY/MOTION INDUSTRIES;  
TRAVELERS INSURANCE  
COMPANY,

*Defendants.*

Case No. ANA 0275418

FINDINGS AND ORDER

This matter having been heard and regularly submitted before the Honorable Marylynne B. Casey, Workers' Compensation Judge, finds and orders as follows:

FINDINGS OF FACT

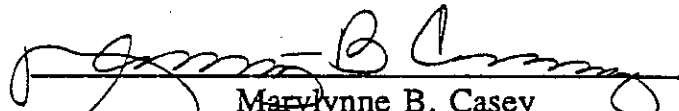
1. Applicant, Myron Sipe, borne 5/24/62, while employed on 8/11/82 as a sales trainee, Group 1, at Santa Ana, California by Genuine Parts Company/Motion Industries, did not sustain an injury AOE/COE to his back.
2. In that he did not sustain an injury, issues at to temporary disability, permanent disability, apportionment, and further medical treatment are moot.
3. No injury having been found, the lien of E.D.D. is disallowed.
4. The lien of Dr. Burcaw is allowed insofar as it pertains to a med-legal evaluation of the Applicant only and shall be adjusted by Defendants within 30 days with Workers' Compensation Appeals Board jurisdiction reserved if the parties are unable to reach agreement. The treatment portion of the lien is disallowed.
5. Applicants attorney is not awarded any attorneys fee since there are no funds in which to award a fee.

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ORDER

It is hereby ordered that the Applicant take nothing from the Defendants.

Defendants are ordered to adjust the med-legal portion of Dr. Burcaw's lien per Finding of Fact 4.

  
Marylynne B. Casey  
Workers' Compensation Judge

Served by mail on persons shown  
on the Official Address Record:

Date: 8/22/95

By Kathleen Stark

MYRON SIPE,

vs.

GENUINE PARTS  
COMPANY/MOTION  
INDUSTRIES; TRAVELERS  
INSURANCE COMPANY,

Workers' Compensation Judge:

Marylynne B. Casey

Date: 08/18/95

Peter J. Porter  
Attorneys for Applicant

Kegel, Tobin & Truce  
By: Karen A. Course  
Attorney for Defendant

OPINION ON DECISION

Injury AOE/COE

Applicant testified to lifting parts which weighed more than 70 lbs. and lifting electric motors which weighed from 70 to 250 lbs. during the course of his employment for Genuine Parts Company. Applicants testimony is not credible, in that he also testified that he did not have any prior injuries to his back. He later testified that while he may have had "prior incidents" involving his back he did not feel that they were injuries. This testimony is contradicted by records submitted as exhibits which clearly state that Applicant was involved in at least two prior accidents in which he injured his back.

Applicants supervisor testified credibly that he did not see the Applicant lift more than 100 lbs. during the course of performance of his job duties. The supervisor testified that the Applicant was wearing a back brace prior to the reporting of any type of industrial injury. In fact, when his supervisor questioned him as to why he was wearing a back brace, his supervisor was advised that Applicant felt his back was aching due to moving furniture the previous weekend.

Based on the fact that Applicant did not testify credibly, as well as based on his long history of back problems, it is found that Applicant did not sustain injury arising out of and occurring in the course of employment on or about 8/11/92, as herein alleged.

Temporary Disability

In that it has been found that Applicant did not sustain an injury to his back, the issues as to temporary disability, permanent disability, apportionment, and further medical treatment are rendered moot.

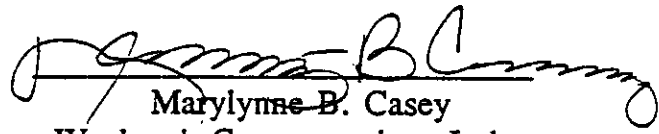
Self Procured Treatment/Med-Legal

Treatment charges for any self procured medical treatment is disallowed, in that it has been found that Applicant did not sustain an injury arising out of and occurring in the course of employment. The lien claim of E.D.D. is further disallowed in that no injury has been found.

Dr. Burcaw is to be provided payment for his med-legal evaluation of the Applicant. This sum shall be adjusted by Defendants within 30 days with Workers' Compensation Appeals Board jurisdiction reserved in the event that the parties are unable to reach agreement.

Attorneys Fees

In that there are no funds in which to award an attorneys fee, applicants attorney is not awarded any fee.

  
Marylyne B. Casey  
Workers' Compensation Judge

MBC:kes

cc: Peter J. Porter  
Kegel, Tobin & Truce