

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

JERRY J. HARO,

Applicant

vs.

LOS ANGELES COUNTY METROPOLITAN
TRANSIT AUTHORITY, self-insured,

Defendants.

Case No. LAO 0725239, 732224

FINDING AND ORDER

Drasin & Singer
By: Lawrence Drasin
Attorneys for Applicant

Kegel, Tobin & Truce
By: W. Joseph Truce
Attorneys for Defendants

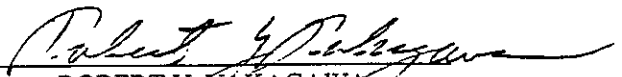
The above-entitled matter having been heard and regularly submitted, the Honorable Robert Y. Nakagawa, Workers' Compensation Judge, finds and orders as follows:

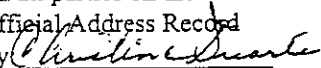
FINDINGS OF FACT

The applicant's Petition is untimely

ORDER

IT IS ORDERED the applicant take nothing.


ROBERT Y. NAKAGAWA
WORKERS' COMPENSATION JUDGE

Filed and served on:
12-29-99
On all parties on the
Official Address Record
By: 

CASE NO. LAO 0725239
LAO 0732224

JERRY J. HARO

-vs-

LOS ANGELES COUNTY
METROPOLITAN TRANSIT
AUTHORITY

DATE OF INJURY:

OCTOBER 31, 1982 TO
DECEMBER 14, 1995;
NOVEMBER 29, 1995

WORKERS' COMPENSATION JUDGE:

ROBERT Y. NAKAGAWA

OPINION ON DECISION

LABOR CODE §132(a):

Workers' Compensation Judge Robert Y. Nakagawa issued a November 1, 1996 Stipulated Findings and Award for 12% for a December 14, 1994 – 1995 continuous trauma (LAO 0725239) and a November 29, 1995 specific injury (LAO-0732224) for the spine.

Dr. Lozano's June 12, 1996 report states the applicant cannot work at his regular profession with the preclusions from heavy work/lifting, repetitive bending, stooping, carrying and prolonged sitting.

The applicant underwent vocational rehabilitation from November 15, 1996 to April 14, 1997 as a computerized accounting clerk.

The parties stipulate that the applicant was terminated on April 8, 1997 for not being able to return to her usual and customary employment.

The August 13, 1998 letter of applicant's attorney demands the applicant be reinstated based upon Dr. Lozano's May 26, 1998 report that the applicant is able to return to his normal position as a bus driver without restrictions.

The applicant's December 14, 1998 Petition for Labor Code §132(a) benefits was filed on December 17, 1998.

The defendant did not respond to the applicant's August 13, 1998 demand.

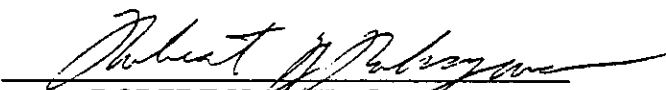
The applicant asserts his Petition was filed within one year from the date of demand whereas, the defendant asserts the applicant's Petition was filed more than one year from the April 8, 1997 date of termination.

Labor Code §132(a) states the Labor Code §132(a) proceedings must be filed not more than one year from the discriminatory act or date of termination.

The Court is of the opinion the applicant's Petition is untimely because the Petition the was filed more than one year after the date of termination.

The Court is of the opinion the defendant's failure to respond to the applicant's August 13, 1998 demand for reinstatement was not a discriminatory act, based upon its reliance on Dr. Lozano's June 12, 1996 report.

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ROBERT Y. NAKAGAWA
WORKERS' COMPENSATION JUDGE

Filed and served on:

12-29-99

On all parties on the
Official Address Record.

By: *Christina Duarte*