

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

FIDELINA RAMIREZ,

Applicant,

vs.

BEACON LAUNDRY & CLEANERS;
TRANSAMERICA INSURANCE CO.,

Defendant.

Case No. LA 638131

FINDINGS AND ORDER

Dean Donin, attorney for applicant.
Kegel, et al., by Dennis Triplett, attorneys for defendant.

The above-entitled matter having been heard and regularly submitted, the HONORABLE RICHARD J. REYNA, Workers' Compensation Judge, now makes his decision as follows:

FINDINGS OF FACT

1. Fidelina Ramirez, born January 29, 1964, while employed on March 10, 1990, as a laundry attendant, Group 2, at Culver City, California, by Beacon Laundry and Cleaners, then insured as to workers' compensation liability by Transamerica Insurance Company, sustained injury arising out of and occurring in the course of employment to her neck, back, and right shoulder.
2. At the time of injury applicant's earnings were \$238.00 weekly.
3. The injury caused no compensable temporary disability.
4. The injury caused no ratable permanent disability.
5. Further medical treatment will not be required to cure or relieve from the effects of the injury.
6. Applicant incurred medical expense to prove a contested case in amounts to be adjusted by the parties or determined herein upon the filing of a petition and supporting documents.
7. The issues of applicant's out-of-pocket expense and Labor Code section 5710 fees will be taken off calendar with jurisdiction reserved by the Board.
8. There are no funds available against which a lien for attorney fees can be allowed.

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

ORDER

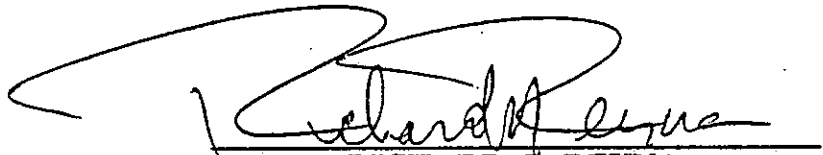
IT IS ORDERED that applicant take nothing further by reason of the claim asserted herein.

IT IS FURTHER ORDERED that the issues of self-procured medical treatment and medical-legal costs; out-of-pocket expense, and Labor Code section 5710 fees are hereby taken off calendar.

DATED: OCTOBER 19, 1994

Filed and Served by mail
on all parties on the
Official Address Record

By: Faye Bolds 10/21/94
Faye Bolds


RICHARD J. REYNA
Workers' Compensation Judge

LAO 638 131

FIDELINA RAMIREZ
COMPANY

vs.

BEACON LAUNDRY & CLEANERS;
TRANSAMERICA INSURANCE

WORKERS' COMPENSATION JUDGE: HON. RICHARD J. REYNA

DATE: October 12, 1994

OPINION ON DECISION

INJURY ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT:

Applicant alleges injury to her neck, back and shoulders while employed by defendant as a laundry attendant on March 10, 1990. At hearing defendant denied applicant sustained any compensable injury while employed by Beacon Laundry & Cleaners. The parties stipulated that the employer did not deny applicant's claim within 90 days of notice of applicant's claim.

Applicant testified that she felt pain in her right shoulder while folding a sheet at work on March 10, 1990, and that she told her co-workers that she hurt herself. Applicant's co-worker, Micaela Garcia, testified that on the day following the applicant's injury, the applicant told her that she had hurt her back at work, and that she saw that the applicant was in physical discomfort. Pursuant to Calif. Labor Code Section 5402, the trial court finds that the defendant is precluded from disputing its liability for applicant's claim of injury with evidence that could have been obtained with the exercise of reasonable diligence within the 90 days.

Therefore, the trial court finds that the applicant did sustain injury to her neck, back and right shoulder.

Fidelina Ramirez
LAO 638 131
page two

TEMPORARY & PERMANENT DISABILITY; NEED FOR FURTHER TREATMENT:

The applicant testified that she continued working from March 10, 1990, until she left work to visit her mother in Mexico on May 31, 1990, and that when she returned to her job after her leave of absence she was not given her job back. She testified that she found similar work at another laundry and she did not miss time from work due to her right shoulder for the year that she has worked there. She testified that she first sought medical care for her right shoulder on August 17, 1990.

Myra L. Feffer, M.D., states in her diagnostic report, dated August 28, 1990, that applicant's cervical, thoracic spine and right shoulder are normal and unremarkable. Herbert K. Moorman, D.C., finds that applicant's right deltoid sprain is resolved, and he finds no objective medical evidence of permanent impairment. The trial court finds Dr. Moorman's medical legal report to be well reasoned and persuasive on the issue of the nature and extent of applicant's physical impairment. Based on the testimony as a whole and Dr. Moorman's report, the trial court finds that applicant was not temporarily totally disabled from June 1, 1990 to December 12, 1990; that applicant's permanent disability is minimal, and that the applicant is not in need of further medical treatment to cure or relieve from the effects of the injury sustained herein.

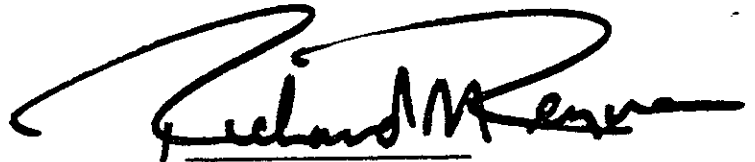
Fidelina Ramirez
LAO 638 131
page three

LIENS AND OUT OF POCKET EXPENSES;

Lien claims, out of pocket expense and Labor Code Section 5710 attorney fees were ordered off calendar at trial to allow the parties and lien claimants to adjust their out of pocket expenses and lien claims in light of the trial judge's Opinion on Decision. Lien claimants were not present at trial and were not served with a notice of intent to submit the matter of their liens for decision. Therefore, out of pocket expenses, medical-legal and treatment costs and L.C. 5710 attorney fees are ordered to remain off calendar. Any aggrieved party may bring these matters back on the active calendar by filing a declaration of readiness, petition and supporting documents.

PENALTY AND ATTORNEY FEE:

There is no award of benefits to the applicant from which to award a penalty and attorney fee.



RICHARD J. REYNA
Workers' Compensation Judge