

STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD

HAROLD E. ROBERTSON,

Applicant

vs.

ALLIED SIGNAL:  
TRAVELERS INSURANCE COMPANY

Defendants.

CASE NO. MON 139792  
MON 111827 & 29

FINDINGS AND AWARD

GOLDSCHMID, SILVER AND SPINDEL  
BY: VERNON GOLDSCHMID.  
Attorneys for Applicant

KEGEL, TOBIN AND TRUCE  
BY: REX ALTMAN  
Attorneys for Defendants

The above-entitled matter having been heard and regularly submitted, the HONORABLE PAMELA W. FOUST, Workers' Compensation Judge, finds, awards and orders as follows:

FINDINGS OF FACT

1. Harold E. Robertson, born March 3, 1932 while employed as a planner, Group 41, at Los Angeles, California by Allied Signal, insured by Travelers Insurance Company, on December 4, 1990 sustained injury arising out of and in the course of said employment to his back.
2. Average weekly earnings at injury were \$524.63.
3. Applicant has been adequately compensated on account of temporary disability.
4. Said injury did not cause permanent disability.
5. The issue of apportionment is moot.
6. There is need for further medical treatment to cure or relieve from the effects of said injury.

7. The following liens are to be adjusted between the parties or determined upon the filing of a petition and supporting documents: Vista Bay Medical Group

8. There being no fund against which a lien for attorney fees may be assessed, none is awarded.

AWARD

AWARD IS MADE in favor of Harold Robertson, against Travelers Insurance Company, together with reimbursement of medical/legal costs and self-procured medical treatment as provided in Finding of Fact #7; together with medical treatment

DATED: MAY 12 1992

*Pamela W. Foust*  
PAMELA W. FOUST  
Workers' Compensation Judge

Service by mail or personal service on parties as shown on Official Address Record effected on above date.

By *M. Day*  
M. DAY

NAME Harold Robertson  
WCAB #MON 139792, 111827 and 29

Fax Transmittal Memo		No. of Pages	5	Date	11/92
To	ROY ALTMAN	From	BOB CUNNING		
Company	REBEL TOWNS & TRUCE	Company	TRAVELERS		
Location		Location		Dist. Charge	
Fax #	(213) 383-8346	Fax #		Telephone #	
Comments	Original Subscribers		<input type="checkbox"/> Destroy	<input type="checkbox"/> Return	<input type="checkbox"/> Call for pickup
DECISION ON HAROLD ROBERTSON					

CASE NUMBER MON 139792, 111827 AND 829

HAROLD ROBERTSON v. ALLIED SIGNAL; TRAVELERS INSURANCE CO.

WORKERS' COMPENSATION JUDGE: PAMELA W. FOUST  
DATE OF INJURY: DECEMBER 4, 1990

OPINION ON DECISION

PERMANENT DISABILITY

Applicant sustained injury to his back and finger in connection with injuries occurring between 1981 and 1986. On March 3, 1990, award issued pursuant to stipulations and applicant had 43% permanent disability attributable to his back, after adjustment for age and occupation, with provision for future medical treatment.

Applicant reinjured his back on December 4, 1990 and underwent surgery on August 29, 1988. He obtained a medical report from Dr. Styner, who had also evaluated him in connection with the prior injuries. Defendant obtained a report from Dr. Kornblum. Comparing his condition now to his condition just prior to the injury, applicant testified that he has more pain more often and that he has to carry a cane due to weakness of the right leg.

The WCJ found applicant to be a highly credible witness, but believes that it is very difficult for most people to quantify current pain and compare it to pain experienced at points in the past, such that an applicant's testimony is not always the best evidence of a worsening of disability.

Assuming that applicant gave an accurate history to Dr. Styner in connection with both the March 19, 1991 examination and the June 1, 1989 examination, and assuming that Dr. Styner accurately reported both the complaints and the physical findings, the later report is indicative of a lesser degree of disability in every area discussed in the reports. The range of motion of the spine is more limited in the

**HAROLD ROBERTSON**

earlier report. Applicant has no atrophy currently whereas he did previously, and the diagnosis on the later report is "myoligamentous strain of the lumbar spine". There are much fewer objective factors of disability on the second report. The subjective factors of disability described pain of a lesser degree and of less frequency in the second report as compared to the first. In connection with the first evaluation, Dr. Styner had limited applicant to sedentary work and in connection with the second, light, or perhaps semisedentary work. The first report indicates that applicant need a cane for ambulation, although there is no mention of this in the second one.

Defendant's Dr. Korbhum believed that applicant's present disability was not any worse than his disability at the time of the stipulations.

The WCJ had considered the possibility of partial rehabilitation from the effects of the prior injuries before the present injury was sustained. However, at the time that Dr. Styner saw him on June 1, 1989, five years had elapsed since applicant had been exposed to cumulative trauma per Dr. Styner's discussion. It would be unreasonable to assume that applicant's condition then improved over the next year and one-half and, in fact, applicant did not testify to this.

Before the questions of the nature and extent of permanent disability and apportionment of preexisting disability can be addressed, it is first necessary to determine whether the injury caused permanent disability at all or whether there was merely a temporary aggravation after which the disability returned to the preinjury level. Taking into consideration the entire medical record in connection with applicant's testimony, it must be concluded that the injury did not cause permanent disability at all. It is so found.

**NEED FOR FURTHER MEDICAL TREATMENT.**

Since applicant has an award of future medical treatment in connection with his prior cases involving the same employer, this issue is actually moot. However, it will be found, based on the opinion of Dr. Styner, that applicant is in need of further medical treatment to cure or relieve from the effects of the injury herein.

**LIABILITY FOR SELF-PROCURED MEDICAL TREATMENTS/MEDICAL-LEGAL COSTS.**

The lien claim of Vista Bay Medical Group was raised as an issue. However, the parties could not provide the amount of the lien. This lien is therefore to be

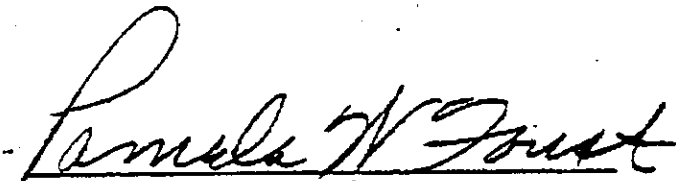
HAROLD ROBERTSON

adjusted between the parties or determined upon the filing of a petition and and supporting documents.

**ATTORNEY'S FEES**

There being no fund against which a lien for attorney's fees may be assessed, none is awarded.

Dated           MAY 12 1992          

  
PAMELA W. FOUST  
Workers' Compensation Judge

PWF/MED