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**STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD**

PERCY TRIBBLE,

Applicant,

vs.

**BOISE CASCADE OFFICE PRODUCTS;
SEDWICK CLAIMS MANAGEMENT
SERVICES,**

Defendants.

Case No. MON 226332

FINDINGS AND AWARD

PHILIP M. KURTZ
Attorneys for Applicant

KEGEL, TOBIN & TRUCE
By: Preeti G. Shah
Attorneys for Defendant

KENNETH GEIGER, M.D.
By: Ellison McQueen
Lien Claimant

Application having been filed herein; all parties having appeared, and the matter having been regularly submitted, the Honorable **YVONNE R. JONES**, Workers' Compensation Judge, finds and awards as follows:

FINDINGS OF FACT

1. Percy Tribble, born June 4, 1965, while employed as warehouse worker, Group 360E, at Garden Grove, California, by Boise Cascade Office Products, insured by Sedwick Claims Management Services, sustained an injury

arising out of and occurring in the course of his employment to his head and headaches on June 3, 1997.

2. Applicant did not sustain injury to his neck per Dr. Ruffman's medical report.

3. At the time of injury applicant's average weekly earnings were \$448.00 per week. Temporary Disability rate of \$298.00 per week and a Permanent Disability rate of \$140.00 per week.

4 Applicant has been adequately compensated on account of Temporary Disability claimed.

5 Said injury caused a Permanent Disability of 3% , equivalent to 9 weeks of indemnity payable at the rate of \$140.00 per week, in the total sum of \$1,260.00, payable beginning July 1, 1997.

6. Defendant is entitled to credit for Temporary Disability overpayment for all payments after June 2, 1997.

7. There is no need for further medical treatment to cure or relieve from the effects of said injury, based on the medical report of Dr. Sohn dated March 19, 1998.

8. Applicant reasonably incurred medical-legal expense, in amounts to be adjusted by the parties or determined herein upon the filing of a petition and supporting documents.

9. Defendant had a genuine doubt from a medical standpoint as to its liability therefore applicant is not entitled to penalty assessment.

10. There is no funds from which to pay attorneys fees.

AWARD

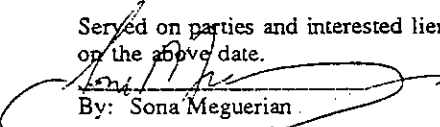
AWARD IS MADE in favor of Percy Tribble, against **Boise Cascade Office Products**, Sedwick Claims Management Services, as follows:

(a) Permanent disability indemnity payable at the rate of \$140.00 per week beginning July 7, 1997 as provided in Findings #5, less credit for Temporary disability overpayment as provided in Findings #6.

(b) Reimbursement for self-procured medical expense and medical-legal costs as provided in Findings #8.

DATED: 9-27-99

Served on parties and interested lien claimants
on the above date.

By:  Sona Meguerian



YVONNE R. JONES

Workers' Compensation Administrative Law Judge

WCAB CASE NO. MON 226332

PERCY TRIBBLE

vs.

BOISE CASCADE OFFICE PRODUCTS;
SEDWICK CLAIMS MANAGEMENT
SERVICES,

DATE OF INJURY

6/3/97

JUDGE

YVONNE R. JONES

OPINION ON DECISION

INJURY ARISING OUT OF AND OCCURRING IN THE COURSE OF
EMPLOYMENT

Based upon stipulation of parties, it is found that applicant sustained injury to his head and headaches arising out of and occurring in the course of employment on June 3, 1997.

Applicant did not sustain injury to his neck. The medical report of Dr. Joel Ruffman dated June 4, 1997 states that applicant denies any neck symptoms. The applicant was not credible when he testified that he told Dr. Ruffman about neck complaints. Applicant saw Dr. Ruffman several times and his reports do not mention neck complaints.

INJURY: PARTS OF BODY

Applicant also alleges injury to his head. Based upon applicant's testimony and the medical report of Dr. Sohn dated March 19, 1998, it is found that applicant sustained injury to his head.

OCCUPATION

Based upon applicant's testimony which is set forth by reference in the permanent disability rating instructions, the opinion of the disability evaluation specialist, it is found that applicant was employed as warehouse worker, Group 360E.

EARNINGS

Based upon stipulations of parties it is found that applicant's earnings were sufficient to establish average weekly earnings of \$448.00 per week, sufficient to produce a temporary disability rate of \$298.00 per week and a permanent partial disability rate of \$140.00/170.00 per week.

TEMPORARY DISABILITY

Defendants have paid temporary disability during the period beginning June 4, 1997, to and including June 22, 1997, from October 3, 1997 through October 7, 1997 and February 18, 1998 through March 31, 1998 at the weekly rate of \$298.67. Total paid \$2,816.00.

PERMANENT DISABILITY

Applicant did not sustain permanent disability to his head.

The factors of permanent disability which rate according to the following formula:

1.7 - 3% - 360E - 3 - 3

set forth in the rating instructions are based upon applicant's testimony with due consideration to his credibility and demeanor as a witness and the medical report of Dr. Sohn dated March 19, 1998. There having been neither objection to the recommended rating nor a timely request for cross examination of the rater, in accordance with the rater's recommendation, the above rating formula, it is found that applicant is entitled to a permanent disability award of 3%, equivalent to 9.00 weeks of indemnity, at the rate of \$140.00 per week, in the total sum of \$ 1,260.00, payable beginning July 1, 1997.

Defendant is entitled to credit for Temporary Disability overpayment from October 3, 1997 to October 7, 1997 and from February 18, 1998 to March 31, 1998.

NEED FOR FURTHER MEDICAL TREATMENT

Based upon the medical report of Dr. Sohn dated March 19, 1998, it is found that applicant is not in need of further medical treatment to cure or relieve from effects of the injury herein.

SELF-PROCURED MEDICAL TREATMENT AND MEDICAL-LEGAL COSTS

Based on the range of evidence, it is found that defendants failed to render medical treatment when necessary and applicant incurred expenses therefor and for reasonable and necessary medical-legal expense, in amounts to be adjusted by the parties or determined herein upon the filing of a petition and supporting documents.

PENALTY


When the payment or furnishing of any compensation benefit has been "unreasonably delayed or refused" the award is increased by 10%. Labor Code Section 5814. The only satisfactory excuse for delay in payment before or after an award is "genuine doubt from a medical or legal standpoint as to liability for benefits," and the burden is on the employer or carrier to show substantial evidence of the basis for doubt. Kerley vs. WCAB (1971) 36 CCC 152, 157.

Defendant had a genuine doubt from a medical standpoint as to its liability. Applicant is not entitled to penalty assessment.

ATTORNEY FEES


There is no fund for which to pay attorneys fee..

Dated 10-27-99



YVONNE R. JONES
Workers' Compensation Administrative Law Judge

Served on said date by mail on persons shown on the Official Address Record

BY: 
Sona Meguerian