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STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case No. BGN 097288

GULLERMINA AYALA, Dec.;
RICARDO AYALA, Widower,

Applicant

vs.

LUCKY STORES; T-CHEM PRODUCTS,

Defendants.

FINDINGS AND ORDER

Law Offices of Ozurovich & Schwartz, by Lynne Brown, attorneys for applicant;
Law Offices of Kegel, Tobin & Truce, by Karen A. Course, attorneys for defendants.

Application having been filed herein; all parties having appeared and the matter having been regularly submitted, the Honorable JERRE D. VAN GORDER, WORKERS' COMPENSATION JUDGE, now finds and orders as follows:

FINDINGS OF FACT

1. GULLERMINA AYALA, deceased, born April 16, 1939, was employed at Santa Fe Springs, California on August 2, 1984 as a feeder by LUCKY STORES and T-CHEM, permissibly self-insured as to workers' compensation insurance.

2. Applicant did not sustain injury to her internal organs (liver), resulting in her death, arising out of and occurring in the course of employment on August 2, 1984 as alleged herein.

3. All other issues are moot.

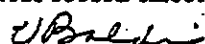
ORDER

IT IS, THEREFORE, ORDERED that applicant take nothing herein.

DATED AT ANAHEIM, CALIFORNIA
DECEMBER 14, 1993


JERRE D. VAN GORDER
WORKERS' COMPENSATION JUDGE

A Petition for Reconsideration from this decision shall be filed only at the Anaheim district office of the Workers' Compensation Appeals Board.

Service by mail on parties checked on the official address record effected on above date. By: 

STATE OF CALIFORNIA
WORKER'S COMPENSATION APPEALS BOARD

CASE NO. BGN 097288

GUILLERMINA AYALA, Dec.;
RICARDO AYALA, Widower

vs. LUCKY STORES; T-CHEM PRODUCTS

WORKERS' COMPENSATION JUDGE:
JERRE D. VAN GORDER

DATE: December 14, 1993

INJ.: August 2, 1984

OPINION ON DECISION

Applicant claims a death benefit pursuant to injury arising out of alleged exposure to chemicals while employed by defendant. Testimony was heard from applicant's husband as to her work duties, exposure and illnesses preceding her death on August 2, 1984. The parties also submitted the issue for medical opinion to Herman C. Schoen, M.D. His report of September 19, 1991 has been reviewed by the court. The conclusion of the report is that applicant died of a massive hepatic necrosis and that the cause was unidentified. Dr. Schoen goes on to rule out an occupationally-related death based upon the time frames of the hepatic poisoning versus the lengthy job exposure and applicant's leave of absence just prior to her death.

To be compensable, there must be a causal linkage between a person's death and an industrial injury and exposure. None is shown here based upon a review of the records and the opinion of the Agreed Medical Examiner. This opinion must be accorded great weight. It is insufficient to believe, as applicant's husband does, that applicant was cruelly treated at work and received poor care at Kaiser.

Accordingly, it is found that applicant has failed to meet the burden of proof by a preponderance of the evidence and shall take nothing herein. All other issues are moot.


JERRE D. VAN GORDER
WORKERS' COMPENSATION JUDGE

JDV:vb