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STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

Ex. Cr App 8

Appendix A

Case No. ADJ10064793

TINA BRADFORD,

Applicant,

vs.

LOS ANGELES COUNTY OFFICE OF
EDUCATION, permissibly self-insured, and
administered by YORK RISK SERVICES;

Defendants.

FINDINGS AND ORDER

The above entitled matter having been heard and regularly submitted, the Honorable Peter M. Christiano, Workers' Compensation Administrative Law Judge, now decides as follows:

FINDINGS OF FACT

1. Tina Bradford, born 11/26/1967, while employed during the period 8/1/2009 through 8/1/2010 as a substitute teacher, at Los Angeles, California by the Los Angeles County Office of Education, permissibly self-insured and administered by York Risk Services, did not sustain injury arising out of and in the course of said employment to the arms, lower extremities, eyes, skin, cervical cancer, hypothyroidism, acid reflux, and internal as Applicant failed to meet her burden of proof.

2. All other pending issues are rendered moot by the above finding.

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Appendix A

ORDER

IT IS HEREBY ORDERED that Applicant shall take nothing further from the claims filed herein.

Date: March 23, 2018


Peter M. Christiano
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

Served on all parties on the
Official Address Record
03/23/18 *Unwritten Comment*

Appendix A

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

CASE NUMBER: ADJ10064793

TINA BRADFORD

-vs.-

LOS ANGELES COUNTY
OFFICE OF EDUCATION,
permissibly self-insured, and
administered by YORK RISK
SERVICES;

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE: Peter M. Christiano

OPINION ON DECISION

INJURY AOE/COE:

After review of all the evidence presented, there appears to be no evidence submitted establishing industrial causation for any of Applicant's complaints to a cumulative trauma claim. Even Applicant's own testimony appears to admit that all of Applicant's complaints relate to the prior specific injury that previously settled by way of compromise and release (*Minutes of Hearing/Summary of Evidence* dated 3/14/2018, page 7, lines 12-17). Applicant appears to be demanding that the prior case be opened back up so that she can be "adequately compensated" for that prior injury (*Minutes of Hearing/Summary of Evidence* dated 3/14/2018, page 7, line 14). The time period for Applicant to set aside that prior settlement for further adjudication has long since passed.

Turning to the present claimed injury, there was absolutely no evidence presented that would establish that any of Applicant's current or past complaints related to a cumulative trauma claim or any claim that was separate from the prior, settled, claim. None of Applicant's treating records indicated such, neither of the panel QMEs indicates such, and Applicant's testimony, as indicated above, is silent on any other causal factors that would explain Applicant's current complaints. This court does not doubt that Applicant suffered an "injury" from her exposure while working for Los Angeles County Office of Education, but that injury related only to a specific claim that previously settled. Any need for additional treatment or disability that resulted from that "injury" Applicant has already been compensated for by way of the compromise and release settlement agreement that was ordered by this court (*Defendant's Exhibits M and N*).

Applicant bears the burden of proof to establish all elements of her claim, including that the claimed injury was caused by the pending cumulative trauma injury. Here, Applicant failed to meet that burden through substantial evidence. Based upon all of the above, it is found that Applicant did not sustain injury arising out of and in the course of employment to the arms, lower extremities, eyes, skin, cervical cancer, hypothyroidism, acid reflux, and internal as alleged in this cumulative trauma claim, as Applicant failed to meet her burden of proof on that threshold issue.

Appendix A

All other pending issues are rendered moot by the above finding.

Date: March 23, 2018



Peter M. Christiano
*WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE*

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STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Appendix B

Tina Bradford

Applicant,

vs.

Los Angeles County Office of Education
Defendants.

Case No(s): ADJ 8736268

ORDER APPROVING
COMPROMISE AND RELEASE
And
AWARD

JOINT ORDER APPROVING C&R

The parties have filed a Compromise and Release in the above-entitled action together with the entire medical record, which is admitted into evidence and have waived the provisions of Labor Code § 5313. For the reasons set forth in the Compromise and Release and based upon an evaluation of the entire record, the settlement appears adequate and should be approved.

The court has considered the release of applicant's dependents' rights to death benefits in determining the adequacy of the Compromise and Release. Sumner v. WCAB, 48 CCC 369.

The court has considered the applicant's release of Supplemental Job Displacement Benefits in the Compromise and Release.

In view of the contested issues as set forth in the offer of proof, there are good faith issues, which, if resolved against the employee, would defeat the employee's right to compensation.

The parties have filed a Medicare Set Aside as part of the Compromise and Release.

Now, therefore, IT IS ORDERED that said Compromise and Release is approved.

AWARD is made in favor of Applicant, Tina Bradford and against Defendants

Los Angeles County Office of Education in the sum of \$ 40,000.00

less the sum of \$ _____

payable to _____ as reasonable attorney's fees,

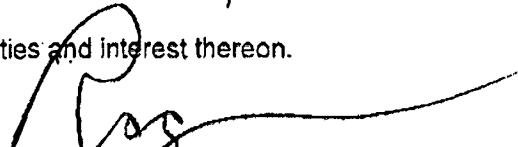
and less permanent disability advances, according to proof, of \$ 690.00

and less _____ of \$ _____

leaving a balance payable to applicant of \$ 39,310.00

The Board retains jurisdiction over liens filed to date and penalties and interest thereon.

Dated: 01/28/2013


George A. Schramm Hon. Roger Tolman
Workers' Compensation Judge

Service by mail on parties as shown
on Official Address Record: By _____ Date: _____

Appendix A

Appendix C

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

TINA BRADFORD,

Applicant,

VS.

**LOS ANGELES COUNTY OFFICE OF
EDUCATION, permissibly self-insured,**

Defendants.

**Case No. ADJ10064793
(Van Nuys District Office)**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's report, which we adopt and incorporate, we will deny reconsideration.

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Appendix A

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

Appendix C

CASE NUMBER: ADJ10064793

TINA BRADFORD

-vs.-

LOS ANGELES COUNTY
OFFICE OF EDUCATION,
permissibly self-insured, and
administered by YORK RISK
SERVICES;

APPLICANT

DEFENDANT(S)

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE:

Peter M. Christiano

REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION

I. INTRODUCTION:

Applicant, born 11/26/1967, worked as a substitute teacher for the Los Angeles County Office of Education. Applicant alleges a cumulative trauma injury during the period 8/1/2009 through 8/1/2010 based upon exposure at work that led to an infection, resulting in Applicant claiming injury to the arms, lower extremities, eyes, skin, cervical cancer, hypothyroidism, acid reflux, and internal complaints.

Applicant is the Petitioner herein, and filed a timely, verified, Petition for Reconsideration (hereinafter, the "Petition") on 3/30/2018. Petitioner takes issue with this court's Findings and Order and Opinion on Decision dated 3/23/2018. In that Findings and Order, the undersigned WCJ found Applicant did not sustain injury as alleged as she failed to meet her burden of proof to establish any of Applicant's complaints related to the pending cumulative trauma claim. Applicant had another prior claim for a specific injury (ADJ8736268), which previously settled and covered the same industrial complaints.

Petitioner contends that the undersigned WCJ erred by not requesting a formal rating, by ignoring that Applicant was in fact exposed to a "STAPH" infection, by not considering new

Appendix A

evidence that Applicant has an upcoming doctor's appointment, and by committing fraud against the Applicant by considering evidence offered by defendant indicating Applicant's mental state.

II. STATEMENT OF FACTS:

This claim involves a cumulative trauma claim, plead during the period 8/1/2009 through 8/1/2010, with Applicant alleging injury to virtually every body part, including the arms, lower extremities, eyes, skin, cervical cancer, hypothyroidism, acid reflux, and internal complaints. Defendant denied the claimed injury.

Applicant previously filed a claim for the same complaints for a specific date of injury dated 7/15/2009 (ADJ8736268). Applicant last worked for the employer in 2010. Applicant settled that prior claim by way of compromise and release settlement agreement on 1/28/2013 (*Defendant's Exhibit M and N*).

For the pending cumulative trauma claim at issue herein, Applicant filed the Application for adjudication on 7/14/2015. The parties utilized the services of a panel QME, Dr. Stuart Shear, to resolve the pending industrial causation dispute, and the doctor issued one report dated 5/7/2017 (*Court's Exhibit XI*).

On 11/29/2017, WCJ Zamudio issued an Order Relieving Applicant's attorney of record, Ronald Canter, and Applicant proceeded after that in *proper*.

On 3/14/2018, the parties appeared before the undersigned WCJ for trial. After preliminary discussions with the parties, the parties prepared for trial, and the documents were properly marked as evidence, the stipulations of the parties were agreed upon, and the issues were properly framed for the record. The issues to be decided included injury arising out of and occurring in the course of employment, earnings, permanent disability, apportionment, need for further medical treatment, the prior attorney's fee lien, the defense that the claim is barred by the statute of limitations, the defense that the claim is barred by a post-termination filing, and the defense that Applicant failed to timely report the claim. Applicant testified on her own behalf, giving a statement for herself and then being cross-examined by defense counsel based upon that statement. At the conclusion of that, the matter stood submitted for decision, with the caveat that the matter may be referred to the disability evaluation unit for a formal rating, if necessary.

On 3/23/2018, after review of all the evidence presented, the undersigned WCJ issued the Findings and Order and Opinion on Decision. The undersigned WCJ found that Applicant did not sustain injury as alleged as she failed to meet her burden of proof to establish any of Applicant's complaints related to the pending cumulative trauma claim. Applicant was ordered to take nothing further from the pending claim.

On 3/30/2018, Applicant filed the Petition at issue herein. Petitioner contends, as indicated above, that the undersigned WCJ erred by not requesting a formal rating, by ignoring that Applicant was in fact exposed to a "STAPH" infection, by not considering new evidence that Applicant has an upcoming doctor's appointment, and by committing fraud against the Applicant by considering evidence offered by defendant indicating Applicant's mental state.

No answer to the Petition has been received from defendant to date.

III. DISCUSSION:

A. A formal rating was not necessary in this matter:

Petitioner contends that the undersigned WCJ erred "by not requesting a formal medical rating from the medical evaluation unit" (*Petition*, page 2). Petitioner is incorrect in her assertion that a formal rating is required, or that the failure of the WCJ to request one is grounds for reconsideration. A formal rating may be needed, but is not required, when this court makes a finding regarding permanent disability. Prior to making a finding regarding permanent disability, this court must first decide threshold issues like injury arising out of and occurring in the course of employment. If that threshold issue is decided against the Applicant, as it was in this case, then a formal permanent disability rating is no longer needed. The issue of whether Applicant suffered permanent disability need no longer be decided, and is thus rendered moot, by the prior finding on the threshold issue of injury.

Based upon the above, this is not a valid basis to request reconsideration. Reconsideration should be denied on this issue, therefore.

B. No evidence was offered to establish industrial causation to this date of injury:

Petitioner contends that "[t]he evidence does not justify the findings of fact so forth [sic] as the evidence does not excuse the fact Petitioner was exposed to and contacted STAPH (MRSA) during employment at Los Angeles county Office of Education" (*Petition*, page 2). This court is not

disputing that Applicant was exposed to an infection or that Applicant contracted MRSA. Applicant previously filed a case for that infection and settled the claim. As the undersigned WCJ previously said in the Opinion on Decision:

“Turning to the present claimed injury, there was absolutely no evidence presented that would establish that any of Applicant’s current or past complaints related to a cumulative trauma claim or any claim that was separate from the prior, settled, claim. None of Applicant’s treating records indicated such, neither of the panel QMEs indicates such, and Applicant’s testimony, as indicated above, is silent on any other causal factors that would explain Applicant’s current complaints. This court does not doubt that Applicant suffered an “injury” from her exposure while working for Los Angeles County Office of Education, but that injury related only to a specific claim that previously settled. Any need for additional treatment or disability that resulted from that “injury” Applicant has already been compensated for by way of the compromise and release settlement agreement that was ordered by this court (Defendant’s Exhibits M and N). (Opinion on Decision, dated 3/23/2018, page 1).

Applicant offered no evidence establishing any of her current or past complaints were the result of the pending cumulative trauma claim. Petitioner’s contention that there is evidence of an “injury” continues to miss the point. As there was no evidence establishing causation for this date of injury, the court properly found that Applicant failed to meet her burden of proof on the threshold issue of injury arising out of and occurring in the course of employment.

Based upon the above, this is not a valid basis to request reconsideration. Reconsideration should be denied on this issue, therefore.

C. Petitioner has no new evidence to offer to this court for further consideration:

Petitioner contends that Petitioner has discovered new evidence which could not be produced at the hearing, as Petitioner states that Applicant “has a doctor’s appointment scheduled for April 5, 2018, which at [sic] time will offer evidence of ongoing treatment and new referral for a dermatology specialist and orthopedic doctor for muscle tremors and arthoritis [sic] in bones and joints” (*Petition*, page 2). This court does not doubt that Applicant has medical appointments set on an ongoing basis, but Petitioner’s contention that this appointment will be evidence of ongoing treatment or new referrals is speculative, at best. Petitioner does not know what will happen at those

evaluations, does not know what treatment, if any, will be given, and does not know what referrals will be made. No new evidence currently exists, therefore, establishing any of the assertions made by Petitioner.

In addition, the issue at present is not whether Applicant has the need for or is actually receiving ongoing treatment for her complaints. The issue is whether that need for treatment is related to the pending cumulative trauma claim or is related to the prior claim that previously settled. It would be mere speculation to assume the doctor would address that issue in any upcoming appointment. Regardless, such evidence does not exist at present, so there is no new evidence to consider.

Based upon the above, this is not a valid basis to request reconsideration. Reconsideration should be denied on this issue, therefore.

D. There was no fraud committed against Applicant in this matter:

Petitioner contends that “[i]t is possible that [sic] Judge’s decision was procured by fraud by allowing mental evaluation information into court when mental capability was not a part of Petitioner’s Complaint or burden of proof and Petitioner was never treated for mental complaints” (*Petition*, page 2). Petitioner may be confused as to what constitutes fraud in this context. The medical reports offered as evidence were not offered for any fraudulent purpose and do not appear to contain fraudulent information. The documents represent Applicant’s treatment history, and the notations contained in those reports were the doctor’s opinions and not the opinions of this court’s or defendants. The documents are relevant as the documents establish Applicant’s treatment history and the diagnosis given by the doctors at that time.

Petitioner may be referring to the treatment records contained in Defendant’s Exhibit G, wherein the doctor notes Applicant’s fears of having a staph infection (Defendant’s Exhibit G, page 0020), Applicant was given a normal physical examination (Defendant’s Exhibit G, page 0021 and 0024), and Applicant was ultimately referred to a psychiatric evaluation for “defusional thinking” (Defendant’s Exhibit G, page 0035). The submission and consideration of this evidence is relevant to establish the lack of physical findings to substantiate Applicant’s current complaints, and as a possible alternate theory as to the cause of Applicant’s alleged ongoing and additional complaints. This court rightfully allowed the documents into the evidentiary record, and considered the evidence

as part of Applicant's overall medical history. No fraud was committed against Applicant by allowing this evidence.

Based upon the above, this is not a valid basis to request reconsideration. Reconsideration should be denied on this issue, therefore.

IV. RECOMMENDATION:

The undersigned WCJ recommends that the Applicant's Petition for Reconsideration dated 3/29/2018, be denied.

Date: April 10, 2018



Peter M. Christiano
**WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE**

Served on all parties on the
Official Address Record
04/10/18 *Vanessa Camper*

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

**PROOF OF SERVICE-REPORT AND RECOMMENDATION ON
PETITION FOR RECONSIDERATION**

Case Number: ADJ10064793

ACUMEN LAW
GLENDALE Law Firm, 1010 N CENTRAL AVE STE 240 GLENDALE CA 91202,
MB@ACUMENLLP.COM

EDUCATION
LOS ANGELES OFFICE OF EDUCATION Employer, 9300 IMPERIAL HWY DOWNEY CA 90242

TINA BRADFORD Injured Worker, 2838 SOUTH SYCAMORE APT 1 LOS ANGELES CA 90016

YORK RIVERSIDE Claims Administrator, PO BOX 619079 ROSEVILLE CA 95661

YORK ROSEVILLE Claims Administrator, PO BOX 619079 ROSEVILLE CA 95661

Served on all parties on the
Official Address Record
04/10/18 *Vanessa Camper*

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

COURT OF APPEAL – SECOND DIST.

FILED

Jul 30, 2018

JOSEPH A. LANE, Clerk

EMcClintoc Deputy Clerk

TINA BRADFORD,

No. B290453

Petitioner,

(W.C.A.B. No. ADJ10064793)

v.

WORKERS' COMPENSATION
APPEALS BOARD and LOS
ANGELES COUNTY OFFICE OF
EDUCATION,

Respondents.

ORDER

THE COURT:

The petition for a writ of review filed herein has been read and considered.

The petition is denied.

Perluiss

PERLUSS, P. J.,

Zelon

ZELON, J.,

Segal

SEGAL, J.

Appendix E SUPREME COURT
FILED

Court of Appeal, Second Appellate District, Division Seven - No. B290453

SEP 19 2018

Jorge Navarrete Cle

S250516

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

TINA BRADFORD, Petitioner,

v.

WORKERS' COMPENSATION APPEALS BOARD and LOS ANGELES COUNTY
OFFICE OF EDUCATION, Respondents.

The petition for review is denied.

CANTIL-SAKAUYE

Chief Justice

Appendix A

Appendix F

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

TINA BRADFORD,

Applicant,

vs.

LOS ANGELES COUNTY OFFICE OF
EDUCATION; Permissibly Self-Insured,
adjusted by York Risk Services Group,

Defendants.

Case No. ADJ10064793

**ORDER RELIEVING
Ronald M. Canter, Esq.
AS ATTORNEY-OF-RECORD
FOR APPLICANT**

IT APPEARING THAT a Petition For Withdrawal of Attorneys For Applicant, having been filed by Ronald M. Canter, Esq., dated 11/17/2017, and the parties having appeared for MSC on 11/29/2017, and it appearing there having been a breakdown in the attorney-client relationship and GOOD CAUSE APPEARING:

IT IS ORDERED that RONALD M. CANTER, ESQ. be RELIEVED as the applicant's attorney of record.

[Applicant, TINA BRADFORD, shall proceed *in propria persona* until such time as she retains new counsel, and may contact the DWC's Office of Information & Assistance at (818) 901-5367.]

DATED: 11/29/2017

Personally served on
above date on all parties
on the Official Address Record.

By: MR
Millie Rios


RALPH ZAMUDIO
WORKERS' COMPENSATION JUDGE

Appendix A

**Additional material
from this filing is
available in the
Clerk's Office.**