BEFORE THE INDUSTRIAL ACCIDENT BOARD
OF THE STATE OF DELAWARE

WILLIAM K. STONE, JR.,	)	
	)	
Claimant,	)	
	)	
v.	)	Hearing No. 1430119
	)	
MURRY TRUCKING LLC,	)	
	)	
Employer.	)	

DECISION ON PETITION TO DETERMINE COMPENSATION DUE

Pursuant to due notice of time and place of hearing served on all parties in interest, the above-stated cause came before the Industrial Accident Board on April 8, 2016, in the Hearing Room of the Board, in Dover, Delaware.

PRESENT:

MITCHELL G. CRANE

PATRICIA Y. MAULL

Christopher F. Baum, Workers' Compensation Hearing Officer, for the Board

APPEARANCES:

Nicholas M. Krayer, Attorney for the Claimant

Joseph Andrews, Attorney for the Employer

NATURE AND STAGE OF THE PROCEEDINGS

On August 4, 2015, William K. Stone, Jr. ("Claimant") filed a Petition to Determine Compensation Due, alleging that he was injured in a compensable work accident on July 2, 2015, while he was working for Murry Trucking LLC ("Employer"). Claimant alleges that he injured his neck and back. Employer disputes that a compensable work accident occurred.

It is agreed that Claimant's average wage at the time of the alleged injury was $1,237.90 per week. Initially, Claimant alleged that his date of injury was June 29, 2015. Claimant subsequently concluded that the date of injury was July 2, 2015. If the Board finds a compensable injury on June 29, 2015, Claimant's compensation rate would be $665.57 per week. If the Board finds a compensable injury on July 2, 2015, then Claimant's compensation rate would be $679.63 per week.

Claimant seeks a finding that he sustained a compensable injury to the cervical and lumbar spines; that his medical expenses and proposed surgery are reasonable and necessary treatment related to that accident; and that he is entitled to total disability benefits from July 13, 2015, and ongoing.

A hearing was held on the merits of Claimant's petition on April 8, 2016. This is the Board's decision on the merits.

SUMMARY OF THE EVIDENCE

Claimant testified that he had worked for Employer for five years, driving a tractor-trailer (primarily flat-bed work). As part of this work, he had to strap down loads, putting the straps over the loads, taking the slack out and using a bar to tighten it down. The strapping process would change a little depending on what the load was. For example, if the load was mulch, you would have to keep tightening the straps as the mulch compressed under the pressure. A full

load would be ten pallets on each side (twenty total). Two straps would be put on the front pallets, and then there would be single straps on the rest of them.

Claimant explained that, on July 2, 2015, he was assigned to transfer salt pallets a short distance (about a quarter mile). About 8:15am he was working on his third load and, as he was strapping the pallets down, he felt a pop in his neck as he threw the strap over the load. He felt a warm sharp pain that went down the back (although later the pain would just be in his neck). He continued to work, doing about twenty-five loads that day, but after the third load he would just let them load and unload the truck and he would not strap the pallets down.

Claimant stated that, at first, he thought that he had just pulled a muscle. It was just before Independence Day and he had some days off planned anyway (a 10-day vacation), so he figured that it would get better with just home care. He finally went to a doctor on July 13 because his girlfriend pushed him to do it. When he saw the doctor, he referred to the event happening "the week of June 29" and the doctor just wrote June 29, so Claimant started using that as the date of injury. He gave that date of injury to multiple doctors. However, he is sure that it happened on the Thursday before the holiday, which was July 2.

Claimant testified that he first contacted the doctor's office for an appointment on July 8, and saw the doctor's physician's assistant, Mr. Baker, on July 13. He still expected that he would be back at work on July 13. If he called out from work, Employer would miss a load and would get upset at him. On the morning of July 13, around 5:30-6:00am, he called Jamie Murry to state that he had a doctor's appointment and that he (Claimant) would tell Mr. Murry what was going on when he got back. He told Mr. Murry that his anxiety was up and that he needed to see the doctor. Claimant did not tell Mr. Murry that any accident happened. He did later send the doctor's note to Mr. Murry. Claimant is uncertain whether he told Mr. Murry of the work event

at that point or later. He eventually contacted Carol Murry about his claim either that day or the next.

Claimant stated that the July 13 record by Mr. Baker is inaccurate. It makes a reference to Claimant appearing with a child. There was no child present. Claimant agreed that he was then sent for physical therapy, which gave him transient relief. He then saw a chiropractor (Dr. Todd Richardson), whose treatment similarly gave temporary relief. He would get better, but then the pain would come back. He was sent for an MRI and then saw Dr. Matthew Eppley. Dr. Eppley told him that his back condition was "very severe" and proposed surgery. Claimant intends to have the surgery if the Board approves his claim. Dr. Eppley has kept him out of work.

Claimant explained that he has constant pain, more in his neck than his back. The pain is like a burning knot. Most of the time the pain goes down his left upper extremity, but on occasion it goes down the right side and, when it does that, it "really hurts."

Claimant testified that he has not had such pain before. In March of 2013, he was "sucker punched" during a bar fight. He was punched in the nose and fell to the floor. He did not hurt his neck or back in that incident. He does not recall any prior lifting injury or back treatment.

Claimant was asked about a picture from his Facebook account from July 5, 2015. It showed Claimant's pickup truck after being washed and waxed. Claimant explained that his girlfriend washed and waxed the truck. She had done her own vehicle and then did his. Claimant did not think he was physically able to do it at the time.

Claimant denied that he ever worked at a campground. Claimant agreed that he had been written up by Employer before for different issues. He recalls receiving a write up before his

work injury. He thinks that it was "way before" the work injury, but he agrees the letter is dated June 26, 2015, and the certified mail receipt indicates that he got it on July 1. The letter noted that he had continuing problems with Employer.

Patricia Marra testified that she has been in a relationship with Claimant for almost a year. She has been a registered nurse for about twenty years.

Ms. Marra stated that Claimant told her about the incident when he came home from work on July 2. It was the Thursday before a planned vacation, but they could not have that vacation because he got hurt. Claimant said he had neck and back pain. She told him on July 2 that he should go to a doctor and then report the incident to Employer. His hands had developed a tremor and he was unable to pick up something without dropping it. Claimant was reluctant to report the injury for fear that he would lose his job.

Ms. Marra was present with Claimant when he saw the physician's assistant (Mr. Baker) on July 13. Claimant could not remember the specific date of the incident, so he just said it happened during the week of June 29th. There was no child with them at that appointment, so she believes the reference to a child is a typographical error. He was at the doctor's office for his neck and back, as well as for his anxiety and insomnia. After that doctor visit, Ms. Marra urged Claimant to tell Employer.

Ms. Marra confirmed that she is the one who washed and waxed the pickup truck on Claimant's Facebook page. Claimant did not do it because he was hurt. She agreed, though, that Claimant made no mention on Facebook that he was having any neck or back pain.

Dr. Todd A. Richardson, a chiropractor, testified by deposition on behalf of Claimant. He began to provide chiropractic care to Claimant on July 22, 2015. In his opinion, the treatment

he provided to Claimant was reasonable and necessary treatment causally related to the work incident that he believed occurred on June 29, 2015.

Dr. Richardson received a history of injury from Claimant on July 22. Claimant stated that, on June 29, 2015, he was a truck driver and was strapping down a load when he experienced an achy and dull pain in his neck and low back. Dr. Richardson was aware the Claimant went to see his primary care physician on July 13, 2015. The examination was normal with respect to both the neurological and musculoskeletal examination. It also mentioned some mood disturbance issue and made a comment about a child. That doctor rendered a diagnosis of a neck sprain and lumbago for Claimant, and took Claimant out of work. X-rays were ordered for the cervical and lumbar spine, and Claimant was prescribed anti-inflammatory medication and physical therapy. Claimant had imaging studies taken on July 14, which were read as normal for both the cervical and lumbar spine.

On examination of Claimant on July 22, Dr. Richardson noted muscle spasms and decreased range of motion and pain on movement of both the cervical and lumbar spine. He diagnosed Claimant with misalignment of vertebral joints.

Dr. Richardson treated Claimant with chiropractic modalities and physical therapy two or three times per week for about a month. By August 19, 2015, Claimant was reporting some improvement but he was still in pain, particularly bilaterally in the neck area. Dr. Richardson continued to provide treatment to Claimant until September 24, 2015. Claimant's range of motion was better and pain levels were lower, but he still had some pain. Following some MRIs, Claimant was referred to Dr. Matthew Eppley for further treatment. The September MRI report found normal vertebral alignment but indicated the presence of broad-based posterior disk osteophyte complexes at C5-6 and C6-7.

Dr. Richardson opined that the treatment he provided to Claimant was reasonable and necessary treatment. He considered it causally related to Claimant's June 29th work injury based on the nature of Claimant's work and what Claimant reported he was doing at the time. Dr. Richardson has observed truckers strapping down loads before. Such actions are capable of aggravating a degenerative condition or causing a disk protrusion. The doctor was not aware of Claimant having any neck or back problems or treatment prior to the June 29th incident.[1]

Dr. Matthew Eppley, a neurosurgeon, testified by deposition on behalf of Claimant. He has seen Claimant twice: on November 10 and November 24, 2015. In his opinion, Claimant injured his spinal cord in the work incident of June 29, 2015, and needs surgery.

Dr. Eppley stated that Claimant was referred to him by Claimant's primary care doctor. On November 10, 2015, Claimant stated that his symptoms began on June 29, 2015. Claimant explained that he drove a tractor-trailer flatbed and was strapping down a large load, looking high in the air, when his legs became very weak and rubbery. He had worsening pain in the neck, but continued to work. He also complained of generalized pain in the back, which was not as bad as the neck pain. As his neck pain worsened and went down his left arm into his middle finger, he sought medical care on July 13 with "Nurse Practitioner" Baker. Claimant was found to have normal strength and reflexes. He was taken out of work and sent for chiropractic treatment and some diagnostic testing. X-rays of the cervical and lumbar spine on July 14 were read as normal.

On November 10, Claimant complained of neck pain radiating down his left arm to the middle finger. Claimant's girlfriend reported that she had noticed his fine motor skills in his

[1] At his deposition, the doctor was shown medical records from 2001 that indicated that Claimant had severe low back pain after lifting a heavy object. The doctor was also made aware that Claimant was punched in the face in March of 2013. The diagnosis was a nasal fracture with no mention of any neck or back pain.

hands getting worse. On examination, Dr. Eppley noted that the left hand was a bit atrophic and Claimant's fine motor skills in the hand were not very good. Reflexes were very brisk, and he had an abnormal reflex in the knees. These were signs of a cervical spinal cord injury.

Dr. Eppley reviewed a September 2015 cervical MRI. It showed disk herniations at C5-6 and C6-7 with significant narrowing of the spinal canal. There were disk osteophytes at those two levels, which are generally the result of a degenerative process. There was a spot on the spinal cord behind the C6-7 disk that could either be edema or myelomalacia. The doctor assumed was traumatic in origin with the disk banging up against the cord. A September 2015 EMG was read as positive for C8 radiculopathy.

Dr. Eppley explained that, when people have stenosis and then have a sudden extension or flexion of the neck, that is a typical way that the spinal cord gets damaged. In Claimant's case, he looked up to do the straps and the cervical disk banged against the spinal cord, damaging it.

Dr. Eppley recommended surgery, namely a two-level anterior cervical discectomy and fusion. The hope is that this will take the pressure off the spinal cord so that, if Claimant looks up or down again, he won't have another injury to the spinal cord. Damage already done to the spinal cord cannot be repaired, but the surgery can prevent further damage. The doctor took Claimant off of work.

With respect to the low back, Dr. Eppley stated that an MRI showed Claimant had an old, dried up disk with a tear at L4-5. Because Claimant said that his low back started to hurt at the

same time as his neck, the doctor would relate the low back injury to the same work event. Conservative treatment is all that is needed for the low back.[2]

James (Jamie) Murry testified that he is an owner/dispatcher/driver for Employer. He had hear rumors (unconfirmed) that, while working for Employer, Claimant also worked at a campground. About a month and a half prior to July 2, 2015, Mr. Murry had a conversation with Claimant where Claimant indicated that he was going to be starting another business venture and would, at some point, be giving his two-weeks notice.

Mr. Murry stated that, on the Monday that Claimant was due back from vacation (July 13), Claimant called him about 6:00am to say that he had overslept. Mr. Murry told him to come in to work. Claimant did not show up and, after waiting four hours, Mr. Murry called Claimant to see where he was. Claimant told him then that he had a doctor's appointment. About three hours after that, Claimant sent him (by video text) a medical note indicating that he would be unable to work for two weeks. Mr. Murry texted Claimant asking what it was about and Claimant's response was: "You know about my anxiety." There was no mention of any work injury. Some time later Claimant began to ask Mr. Murry about workers' compensation and Mr. Murry directed him to contact Carol Murry.[3]

Mr. Murry agreed that they were transporting salt pallets about a quarter mile. The pallets weigh about 2,500 pounds and one would not expect them to move anyway. For such a short distance you might not strap them down, although technically they are supposed to be when traveling on a main artery.

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[2] Dr. Eppley also reviewed the records of Claimant's 2001 low back injury and the 2013 punching incident. He does not believe either event plays a role in Claimant's current problem.

[3] On further questioning, Mr. Murry was not sure whether workers' compensation was even mentioned then. He was not sure what Claimant was asking about, which is why he referred Claimant to Carol Murry.

Mr. Murry testified that the letter sent to Claimant was in the nature of a warning, telling him that if he continued with certain conduct there would be "consequences." It was a "final warning." Claimant had received multiple warnings for various things. The letter did not fire him.

Carol A. Murry testified that she works at Employer and, ultimately, workers' compensation claims come to her (although she is aware of only one other claim being made).

Ms. Murry explained that Claimant was supposed to return to work on July 13. She understood that he and Mr. Murry had texted back and forth. On July 14, Claimant texted her to ask if she had talked with Mr. Murry and indicating that he needed workers' compensation forms. Ms. Murry stated that she did not know what he was talking about and told him that he needed to follow procedure and report an injury so it could be referred to the insurance company before she could give him forms. Ms. Murry explained that, at first, Claimant was talking about anxiety and the stress of the job. It was "a long time" before she knew about his neck and back complaints.[4]

Dr. Andrew Gelman, an orthopedic surgeon, testified by deposition on behalf of Employer. He evaluated Claimant on October 19, 2015, and reviewed pertinent medical records. In his opinion, the medical records do not support that Claimant sustained a workplace injury.

Dr. Gelman stated that Claimant did not describe a mechanism of injury to him on October 19, 2015. Claimant merely stated that, in June (with no specific date) he began to note pain in his neck and low back. He described his activities of strapping and maneuvering materials, but did not describe an event of leg weakness and increased neck pain after looking

[4] Ms. Murry's testimony was unclear when this happened, at times suggesting that it was over three weeks later, then indicating that it was about two weeks later.

up. Dr. Gelman also did not see any such description of the mechanism of injury in the medical records. The first he became aware of it was in reviewing Dr. Eppley's deposition transcript.

Dr. Gelman also noted that he had not seen any Physician's Report of Injury (which Delaware law requires for a workers' compensation injury) from Mr. Baker (the physician's assistant), Dr. Richardson or ATI Physical Therapy ("ATI"), despite them being supposedly certified workers' compensation caregivers. Mr. Baker's July 13th office note does not document any reference to a work accident, just a manifestation of symptoms.[5] Claimant was found to be neurological normal, with normal strength and reflexes. Similarly, ATI, on July 14, did not record any statement that Claimant was hurt in a work accident. On July 22, Dr. Richardson does state that Claimant was hurt on June 29 while performing his duties as a truck driver, but no mechanism of injury is described. It just states that Claimant was strapping down a load and experienced pain in the neck and low back. No accident to the neck or back was described. Claimant saw Mr. Baker again on July 23rd, and the etiology of the complaints was listed as "undetermined."

Dr. Gelman stated that, when he saw Claimant on October 19, 2015, Claimant did not appear to be in distress, although he was a little anxious overall. Claimant had complaints of neck pain as well as burning and numbness bilaterally, but more predominant on the left side. On examination, Dr. Gelman noted some tenderness over a prominent C7 spinous process. Spurling's test and Lhermitte's test were negative. These tests check for radiating symptoms into the arms. Claimant had normal strength, sensation and reflexes. There was some discomfort to palpation in the low back. In Dr. Gelman's opinion, Claimant was capable of returning to full-time work.

[5] It appears that this July 13th record indicates that Claimant would be unable to work from July 13 to July 27, 2015, but no proper workers' compensation disability form was completed.

Reviewing the diagnostic testing, Dr. Gelman confirmed that cervical and lumbar x-rays were read as normal. An MRI showed spinal canal stenosis at C5-6 caused by a broad-based disk osteophyte and at C6-7, with a large broad-based disk osteophyte. This pathology was not caused by Claimant's employment. They are chronic degenerative changes related to life rather than any provoking injury.

In Dr. Gelman's opinion, there was no mechanism of a workplace injury. Rather, Claimant presented with the manifestation of spinal stenosis attributable to degeneration.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Evidentiary Ruling

During the testimony of Carol Murry, Claimant sought to question her about the First Report of Injury ("FRI") form filed with the Department of Labor. Employer objected, noting that, by statute, the FRI is not to be used as evidence against the employer. Claimant argued that he is permitted to use the FRI for impeachment purposes to challenge Ms. Murry's testimony as to when the injury was reported to her.

The Board sustained Employer's objection. Under the Workers' Compensation Act, an employer is required to file the FRI within ten days that the employer has knowledge of the occurrence of an accident. DEL. CODE ANN. tit. 19, § 2313(a). However, the Act makes it clear that "[r]eports made in accordance with this section shall not be evidence against the employer in any proceedings under this chapter or otherwise but shall be exclusively for the information of the Department [of Labor] in securing data to be used in connection with the performance of their duties." DEL. CODE ANN. tit. 19, § 2313(d).

Claimant asserts that there is case law that states that the FRI can be used for impeachment. The Board has been unable to locate such case law. A search of the Westlaw

database only uncovered two cases where section 2313(d) is even referenced: *Reifsnyder v. Framehouse Gallery, Inc.*, 1998 WL 281211 (Del. Super. April 28, 1988) and *General Motors Corp. v. Smith*, 1985 WL 188973 (Del. Super. February 22, 1985). Neither stands for the proposition that it is proper to use the FRI for impeachment. Of course, it may be that there is a prior Board decision that allowed it. There is no searchable database with every Board decision.

It is also true that the general rule of thumb is that anything can be used for impeachment purposes. No witness has a right to mislead the Board. However, the Board is faced with a statutory section that could hardly be phrased more explicitly. Section 2313(d) not only states bluntly that the FRI "shall not be evidence against the employer" but that it cannot be used as evidence against the employer not just in workers' compensation actions but "otherwise" as well (*i.e.*, in any other type of legal action). As if this were not clear enough, section 2313(d) goes on to state that the FRI shall be "exclusively for the information" of the Department of Labor. The point of this provision is clear. The Department, in performance of its duties, needs accurate information concerning workplace accidents. It is important that employers have *no* disincentive to report such accidents. If an FRI is able to be used against an employer for any purpose, there would be a disincentive to make accurate reports.

In light of this clear statutory language, the Board believes that it cannot allow the FRI to be used as evidence against an employer, even as impeachment evidence. Fortunately, in this case, the issue is of little significance. Claimant admits that he did not report his claimed injury on the date of injury. As will be discussed below, whether he reported it to his employer ten days later, two weeks later or a month later is of little significance compared to the admitted failure to report it on or near the day of injury, particularly in light of other issues with the medical records.

Compensability

The Delaware Workers' Compensation Act provides that employees are entitled to compensation "for personal injury or death by accident arising out of and in the course of employment." DEL. CODE ANN. tit. 19, § 2304. Because Claimant has filed the current petition, he has the burden of proof. DEL. CODE ANN. tit. 29, § 10125(c). "The claimant has the burden of proving causation not to a certainty but only by a preponderance of the evidence." *Goicuria v. Kauffman's Furniture*, Del. Super., C.A. No. 97A-03-005, Terry, J., 1997 WL 817889 at *2 (October 30, 1997), *aff'd*, 706 A.2d 26 (Del. 1998). The Board finds that Claimant has failed to meet his burden of proof.

There are multiple concerns in this case. First, there is the issue of the date of injury. While Claimant and Ms. Marra now state that the incident occurred on July 2, all the medical records from July through November 2015 give a June 29 date of injury. While the Board understands that this may have been the result of an inadvertent mistake by Claimant, what it highlights is the complete lack of any contemporaneous documentation of an injury being reported. The reason Claimant confused the dates is that he did not report any work injury until long after the fact.

Claimant agrees that he did not report his neck injury on July 2, nor at any time for at least ten days thereafter. Despite at least having a sharp pain in his neck and down his back (and, according to Dr. Eppley, also having "very weak and rubbery" legs), Claimant not only did not report an injury to his employer, but he continued to work throughout the day without any history of making a complaint to anybody at work. The incident allegedly happened early in the morning, so this is not a situation where Claimant was close to the end of his shift. The lack of evidence of Claimant telling anybody at work that he even had pain on July 2 (regardless of

causation) raises doubts as to whether the incident happened. Claimant also agrees that, even on July 13, when he was going to the doctor, he told Jamie Murry in the morning that he was going to the doctor for his anxiety, not for a back complaint. It is only after Claimant was taken out of work that he first began to report a work relation to the injury.

In this regard, it is significant to note that Mr. Baker, the first person to document Claimant's neck and back complaints, does not reference any work connection. As Dr. Gelman points out, that doctor's office purports to be a certified workers' compensation provider under title 19, section 2322D of the Delaware Code. As such, if there was a report to the doctor's office of a workplace injury, certain forms would have been required. *See* DEL. CODE ANN. tit. 19, § 2322E. The lack of such forms at least suggests that the medical care provider did not consider the problem to be work related. Claimant argues that Mr. Baker's records did not accurately document Claimant's complaints, noting that there is an inexplicable reference to a child in the notes. Pointing out that one's own doctor's notes are unreliable, however, does not substantiate that a work injury occurred.

This leads to the next area of concern. As pointed out by Dr. Gelman, the early medical records (including therapy and chiropractic records) do not actually document any workplace accident. They document an onset of pain while working, but give no specific mechanism of injury. This leads to another problem with Claimant's case in terms of causation. Dr. Richardson diagnosed Claimant with misaligned vertebral joints (despite objective imaging studies showing no such misalignment). When asked why he considered Claimant's condition to be work-related, the doctor stated that he has "observed truckers strapping down a load with a long lever . . .. They're really putting their whole body into it." *Deposition of Dr. Richardson*, at 9. The problem is that Claimant did not testify to having an onset of symptoms while using the

bar to tighten the straps. Rather, he stated that the onset occurred while looking up as he tossed the straps over the load. Thus, Dr. Richardson has a different understanding of the mechanism of injury than Claimant is relating. This makes the doctor's causation opinion suspect.

There is a similar problem with Dr. Eppley's testimony. In Dr. Eppley's opinion, Claimant damaged his spinal cord when the degenerative osteophytes in his neck "banged into" the spinal cord as he was looking up. As Dr. Gelman observes, this history of pain on looking up is first documented by Dr. Eppley in November of 2015, over four months after the alleged event. This is also the first documentation that, when Claimant looked up, his legs became "very weak and rubbery."[6] This is more than just further defining an ambiguous mechanism of injury. It is adding new symptomatology that was not documented by medical providers who saw Claimant closer to the alleged date of injury. Even more problematic, though, is that, when discussing this mechanism of injury, Dr. Eppley repeatedly stressed that the injury would result from a "sudden" extension or flexion of the neck. *See, e.g., Deposition of Dr. Eppley*, at 12, 13, 15, 41 & 42. The difficulty is that Claimant's description of the event to the Board, while involving a looking-up motion, does not indicate that it was done "suddenly."

This is not a trivial matter. It is undeniable that Claimant has an existing degenerative condition in the neck, namely the disk osteophytes. As Dr. Gelman explained, such a degenerative condition can become symptomatic without trauma. It must be acknowledged that it could also be rendered symptomatic outside of work. While a degenerative condition that is made symptomatic by a work accident is compensable, the burden is on Claimant to show that, more likely than not, the work accident happened. In this case, the combination of the delayed reporting of any work incident plus ambiguity concerning the actual mechanism of injury

[6] Dr. Richardson's testimony was that Claimant had told him that, on the day of the incident, he just experienced an "achy and dull" pain in his neck and low back.

throughout the medical records weighs against Claimant's claim. It is not sufficient for Claimant to articulate a mere possibility of a work injury. His burden of proof is to demonstrate by a preponderance of the evidence (*i.e.*, more likely than not) that an accident occurred. Weighing the evidence presented, the Board finds that Claimant has not met this burden.

STATEMENT OF THE DETERMINATION

For the reasons set forth above, Claimant's petition is denied.

IT IS SO ORDERED THIS 26th DAY OF APRIL, 2016.

INDUSTRIAL ACCIDENT BOARD

MITCHELL G. CRANE

PATRICIA Y. MAULL

I, Christopher F. Baum, Hearing Officer, hereby certify that the foregoing is a true and correct decision of the Industrial Accident Board.

Mailed Date: 4-29-16

OWC Staff