

Defendants contend Claimant failed to meet his burden of proof. Claimant's retinal detachment was not likely caused by the accident and may be idiopathic or the result of a 2002 cataract surgery.

EVIDENCE CONSIDERED

The record in the instant case consists of the following:

1. Hearing testimony of Claimant, his wife, a friend, and Employer;
2. Joint Exhibits 1 – 12;
3. Claimant's Exhibit 1; and
4. Posthearing depositions of Jason Jones, M.D., and James R. Swartley, M.D.

All objections raised in the depositions are overruled, except that Defendants' objections to after-acquired evidence in Dr. Jones' deposition are sustained and exhibits to that deposition are not admitted.

After considering the record and briefs of the parties, the Referee submits the following findings of fact, conclusion of law, and recommendation for review by the Commission.

FINDINGS OF FACT

1. Claimant worked as a truck driver for most of his adult life. He stopped working full time in 2000. He worked part time and on an "as needed" basis at various jobs, including truck driving, to the date of the accident.

2. Claimant began working for Employer as a part-time truck driver in July 2005. On August 9, 2005, the brakes on Claimant's truck failed going down a grade with switchbacks. Claimant judged his best chance of survival required him to abandon the truck at 30 to 35 miles per hour. He jumped. He hit the pavement and his body rolled for several feet, stopping in the rocky barrow pit.

3. Claimant suffered multiple cuts and bruises but required no stitches. He suffered fractured ribs and a broken finger. The broken ribs were not noticed at his initial emergency room visit. He suffered an internal displacement of his stomach which was not discovered or treated for several months. Claimant required surgical repair of the stomach displacement. The emergency room record does not unequivocally record whether Claimant suffered abrasions or other evidence of trauma to his head around his left eye. It does record certain injuries to other body parts.

4. On October 10, 2005, Claimant was hunting when he noticed a dramatic decrease in vision in his left eye. He immediately returned home and sought medical treatment.

5. On October 11, 2005, he visited Jason Jones, M.D. Dr. Jones diagnosed a “giant retinal tear with retinal detachment” and performed surgery on an urgent basis on October 13, 2005. At surgery, he discovered three tears.

6. On October 17, 2005, Dr. Jones reported Claimant’s retinal detachment was “most likely, at least partially, related to the automobile accident.”

7. The tears seen at the time of the first surgery caused a second detachment and required a second surgery on November 22, 2005. Dr. Jones’ diagnosis at the second surgery was “severe proliferative diabetic retinopathy.”

8. Claimant is not diabetic.

9. On April 11, 2006, Dr. Jones reported:

His retinal detachment occurred approximately two months after the injury and he does in fact have a history of detachment in his other eye, making it very difficult to tie the two events together, however, I still believe it is certainly possible that the two might be at least partially related. As you know, he has undergone an evaluation by Dr. James Swartley, who did not feel that the two were related and I will tell you quite frankly that it would be impossible to prove either a positive or negative relationship in this situation being that his symptoms started in an intermediate time after his accident.

I don't believe that there is any way to prove that the accident caused the injury because of this timing and therefore I will not further dispute Dr. Swartley's claim, however, I wanted to be on record that I do not entirely agree with his assessment.

10. On May 5, 2006, Surety claims examiner Karly Gossi provided certain information to a Dr. Livingston. Surety was requesting Dr. Livingston's opinion about whether Claimant's stomach displacement, a paraesophageal hernia, was related to the accident.

She reported:

Mr. Purdey is a 67 year old truck driver for Gary Bailey. While driving a truck on August 9, 2005, the truck lost power and started to go over an embankment. Mr. Purdey jumped from the moving vehicle and landed on his left side. He was treated at Bonner General Hospital for fractures to his hand and ribs. John Faggard, M.D., performed an open reduction internal fixation of the fifth metacarpal fracture on August 12, 2005. *Mr. Purdey also sustained an eye injury which was treated by Jason Jones, M.D., at Spokane Eye Clinic (emphasis added).*

11. On June 2, 2006, Dr. Jones reported:

I do believe it is likely that the injury at least contributed to his problem. Patients with retinal detachment in one eye are more prone than others to develop a detachment in their second eye. However, the situation is not helped when one receives blunt trauma to the eye or around the face and it certainly, in my opinion, makes the possibility of a traumatic vitreous separation and therefore retinal tear that ultimately could lead to a retinal detachment much more likely. The other physician who apparently did not examine the patient questioned whether I could produce literature to prove that this accident caused the detachment and of course that is not possible. Nonetheless, I think it is more than likely and more specifically, more than 51 percent likely, that this accident contributed to Mr. Purdey's subsequent retinal detachment and need for multiple surgeries.

It should also be noted that the detachment in this patient's left eye was associated with a giant retinal tear and with vitreous hemorrhage, which is more common in the setting of trauma than in the setting of spontaneous detachment.

12. James R. Swartley, M.D., conducted a records review of Claimant's case and opined the detachment was not related to the accident.

Prior Medical Care

13. Following cataract surgery on both eyes in July 2002, Claimant suffered a detached *right* retina which Dr. Jones surgically repaired on October 31, 2002.

DISCUSSION AND FURTHER FINDINGS OF FACT

14. **Causation.** A claimant must prove he was injured as the result of an accident arising out of and in the course of employment. Seamans v. Maaco Auto Painting, 128 Idaho 747, 918 P.2d 1192 (1996). Proof of a possible causal link is not sufficient to satisfy this burden. Beardsley v. Idaho Forest Industries, 127 Idaho 404, 901 P.2d 511 (1995). A claimant must provide medical testimony that supports a claim for compensation to a reasonable degree of medical probability. Langley v. State, Industrial Special Indemnity Fund, 126 Idaho 781, 890 P.2d 732 (1995). Here, Dr. Jones gave various opinions. Nevertheless, once he learned and applied the proper legal definition of causation under the Idaho Workers' Compensation Law, his testimony established that Claimant's retinal detachments of his left eye were caused by the compensable accident. He well explained the relationship and medical progression which ultimately resulted in the retinal detachments. He explained the time over which a tear may progress to a detachment. He explained the various factors which may contribute generally to a detachment.

15. Trauma is an uncommon, but well documented, cause of retinal detachment. Other factors are absent or unlikely to have caused Claimant's left retinal detachment. Claimant is neither diabetic nor nearsighted. Cataract surgery in 2002 caused the right eye retinal detachment within a few months, but did not cause one within that time period on the left. The time from cataract surgery to right retinal detachment corresponds loosely to the time from the industrial accident to the left retinal detachment.

16. As a treating physician and one who has actually examined Claimant, Dr. Jones' opinion is entitled to great weight.

17. The record of Claimant's prior right eye retinal detachment may show an anatomical weakness or predisposition to detachment, but does not show that the 2002 cataract surgery was a cause of the 2005 left eye tears or detachments.

18. Claimant suffered eye injuries from the accident which resulted in retinal detachments which required surgery.

CONCLUSION OF LAW

Claimant's left retinal detachment is causally related to the subject accident.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing Findings of Fact and Conclusion of Law as its own and issue an appropriate final order.

DATED this 18TH day of January, 2008.

INDUSTRIAL COMMISSION

/S/ _____

Douglas A. Donohue, Referee

ATTEST:

/S/ _____

Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 29TH day of JANUARY, 2008, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION** was served by regular United States Mail upon each of the following:

Starr Kelso
P.O. Box 1312
Coeur d'Alene, ID 83816-1312

H. James Magnuson
P.O. Box 2288
Coeur d'Alene, ID 83814

db

/S/ _____

2. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this 29TH day of JANUARY, 2008.

INDUSTRIAL COMMISSION

/S/ _____
James F. Kile, Chairman

/S/ _____
R. D. Maynard, Commissioner

/S/ _____
Thomas E. Limbaugh, Commissioner

ATTEST:

/S/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 29TH day of JANUARY, 2008, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following:

Starr Kelso
P.O. Box 1312
Coeur d'Alene, ID 83816-1312

H. James Magnuson
P.O. Box 2288
Coeur d'Alene, ID 83814

db
