

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

RALEIGH D. STEDMAN,

Claimant,

v.

INLAND AUTO GLASS, INC.,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,
Defendants.

IC 2012-027052

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

FILED SEP 10 2014

INTRODUCTION

Pursuant to Idaho Code § 72-506, the above-entitled matter was assigned to Referee Douglas A. Donohue, who conducted a hearing on November 13, 2013 in Lewiston, Idaho. Claimant represented himself, pro se. H. James Magnuson represented Defendants Employer and Surety. Claimant testified at the hearing. No documentary evidence was admitted, and one post-hearing deposition was taken. The matter was briefed and came under advisement on August 12, 2014.

ISSUES

Pursuant to the Notice of Hearing and the parties' stipulation at the hearing, the issues to be decided as a result of the hearing are:

1. Whether Claimant suffered an injury caused by an accident arising out of and in the course of employment;
2. Whether the condition for which Claimant seeks benefits was caused by the alleged industrial accident; and
3. Whether and to what extent Claimant is entitled to medical care benefits.

CONTENTIONS OF THE PARTIES

Claimant contends that he suffered temporary headache, nausea, light-headedness, chest pain, acute hypotension, and altered vision as a result of a honey bee sting he sustained while on a driving errand for Inland. He asserts in his Complaint that the sting was a work-related accident and, therefore, he is entitled to medical benefits related to the ambulance and brief hospital treatment he received following that event.

Defendants counter that Claimant's honey bee sting cannot be considered an industrial accident because, since it is just as likely to have happened in a non-industrial setting, it did not arise out of Claimant's employment. Further, Claimant has not adduced any medical evidence linking the symptoms for which he required emergent care on August 29, 2012 to the sting.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. Testimony of Claimant at the hearing and
2. The post-hearing deposition of Jerry Tate taken May 6, 2014.

FINDINGS OF FACT

After considering the above evidence and the arguments of the parties, the Referee submits the following findings of fact and conclusions of law for review by the Commission.

BACKGROUND

1. Claimant had been a glazier for Inland for approximately 35 years at the time of the hearing. In addition to installing glass in vehicles, heavy equipment, boats, and buildings, Claimant also answered phones, did secretarial work, and assisted customers in the store. Inland has two shops – one in Lewiston and one in Orofino. Claimant drives from the Lewiston shop to the Orofino once each week to do glass installations there.

2. On August 29, 2012, Claimant was returning to Lewiston from the Orofino shop, driving 65-70 miles per hour, three to four miles outside Lewiston. It was a hot day, around 100 degrees, and Claimant had his window down. At some point, a honey bee hit the exterior mirror of his vehicle, bounced onto Claimant, and stung him on the left ear.

3. Shortly thereafter, Claimant developed a severe headache. He kept driving and made a planned stop at OXARC in north Lewiston to purchase some protective gloves for the shop. An OXARC employee looked for a bee sting kit for Claimant, but did not find one. Claimant got back into his vehicle and headed for the shop.

4. As Claimant drove onto the bypass, he felt nauseous. By the time he reached the railroad bridge on the bypass, his field of vision began narrowing, getting black around the edges. Claimant felt like he was going to vomit, so he stopped about a half block before he reached the Lewiston Inland shop and got out. A girl, Kelsey Meacham, was standing nearby. As Claimant walked around to sit, and then lay, on the back of his truck, he told Kelsey that he thought he was going to pass out.

5. Someone called 9-1-1, and an ambulance was dispatched. Claimant received medical treatment, including an intravenous solution. He was told that his blood pressure had dropped to 63 over 48. As a precaution, Claimant was transported to St. Joseph's Hospital for observation. He was released about an hour later.

6. Claimant returned to work and has not had any more problems that he attributes to the bee sting. He thinks his related medical bills totaled around \$1,200.

7. Jerry Tate is an eminently qualified bee expert. He and his wife have owned Tate's Honey Farm, a family business, since 1987. They sell honey, bee equipment, and bee colonies. Mr. Tate manages 150 bee colonies and trains 150-170 people in beekeeping every

year. Among other positions he has held, Claimant was the president of the Washington State Beekeepers for five years, and he has been responsible for the Washington master beekeeping program. He is certified through the Washington master beekeeper's program and holds an apiary license.

8. Mr. Tate, himself, has been stung several times by honey bees while driving and opined it is consistent with normal honey bee behavior.

DISCUSSION AND FURTHER FINDINGS

The provisions of the Workers' Compensation Law are to be liberally construed in favor of the employee. *Haldiman v. American Fine Foods*, 117 Idaho 955, 956, 793 P.2d 187, 188 (1990). The humane purposes which it serves leave no room for narrow, technical construction. *Ogden v. Thompson*, 128 Idaho 87, 88, 910 P.2d 759, 760 (1996). Facts, however, need not be construed liberally in favor of the worker when evidence is conflicting. *Aldrich v. Lamb-Weston, Inc.*, 122 Idaho 361, 363, 834 P.2d 878, 880 (1992).

ACCIDENT

9. An accident is defined as an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury. Idaho Code § 72-102(17)(b). An injury is defined as a personal injury caused by an accident arising out of and in the course of employment. An injury is construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. Idaho Code § 72-102(17)(a).

10. The Commission posited in early 2011 that a spider bite incurred by a truck driver while on-the-job would constitute a workplace accident:

In the instant matter, the Defendants do not raise “arising” and “course” defenses to the claimed accident. Indeed, if the subject accident occurred as alleged, then it seems clear that the accident is one which both arose out of, and occurred in the course of Claimant’s employment. [Citation omitted]. The “course” requirement is satisfied by the fact that Claimant’s work includes continuous travel from place to place. The “arising” requirement is satisfied by proof that the risk to which Claimant was exposed (spider bite) resulted from his employment.

Nix v. Transops, Inc., 2011 IIC 0089.

11. Earlier this year, in *Vawter v. United Parcel Services, Inc.*, 2014 Opinion No. 6, the Court held that when a package delivery person bent down to tie his boot and injured his back, he had experienced a workplace accident. The Court rejected Defendants’ argument that it should not be liable because Claimant bore the same risk of this injury, whether he was at work or not.

As worker’s compensation case law developed ... the Court began to apply the positional risk doctrine, which “awards compensation for injuries resulting from accidents which are of neutral origin in the sense that their origin is neither occupational nor personal.” *Mayo*, 93 Idaho at 163, 457 P.2d at 402. The Court applies this rule because “when the cause of the injury can be attributed to neither an occupational nor personal origin, and is thus neutral, there is no more reason to assign the resulting loss to the employee than to the employer.” *Id.* Now, “a greater risk analysis is no longer required of a claimant” *Spivey*, 137 Idaho at 35, 43 P.3d at 794.

Id. The Court also reiterated the *Spivey* admonition that, in cases where doubt surrounds whether an accident in question arose out of and in the course of employment, the matter must be resolved in favor of the employee.

12. Defendants cite a number of cases, decided between 1951 and 2000, in support of their position that Claimant’s bee sting did not arise out of his employment. They argue, as per *Eriksen v. Nez Perce County*, 72 Idaho 1, 235 P.2d 736 (1951), that “[t]he causative danger must be peculiar to the work and not common to the neighborhood.” They further argue that because Claimant’s sting occurred as random happenstance not connected to his work as a

glazier, it is not peculiar to Claimant's work and is more in the nature of being common to the neighborhood or outside the workplace; therefore, the sting cannot be said to have arisen from the course of employment because the risk of such an injury was not increased by Claimant's employment.

13. Claimant did not file a brief; nevertheless, Defendants' proposed interpretation of *Erickson* would require the Commission to ignore the development of the case law on this point, most significantly *Spivey*, which specifically rejects Defendants' argument that a neutral cause cannot precipitate an industrial accident.

14. Defendants concede that Claimant incurred his injury in the course of his employment, and that his injury arose out of a neutral cause. Consistent with current *Vawter* and *Spivey*, the evidence of record establishes by a preponderance that Claimant's honey bee sting also constitutes an accident "arising out of" Claimant's employment.

CAUSATION

15. The Idaho Workers' Compensation Act places an emphasis on the element of causation in determining whether a worker is entitled to compensation. In order to obtain workers' compensation benefits, a claimant's disability must result from an injury, which was caused by an accident arising out of and in the course of employment. *Green v. Columbia Foods, Inc.*, 104 Idaho 204, 657 P.2d 1072 (1983); *Tipton v. Jannson*, 91 Idaho 904, 435 P.2d 244 (1967).

16. The claimant has the burden of proving the condition for which compensation is sought is causally related to an industrial accident. *Callantine v. Blue Ribbon Supply*, 103 Idaho 734, 653 P.2d 455 (1982). Further, there must be medical testimony supporting the claim for compensation to a reasonable degree of medical probability. A claimant is required to establish a

probable, not merely a possible, connection between cause and effect to support his or her contention. *Dean v. Dravo Corporation*, 95 Idaho 558, 560-561, 511 P.2d 1334, 1336-1337 (1973), overruled on other grounds by *Jones v. Emmett Manor*, 134 Idaho 160, 997 P.2d 621 (2000).

17. The Idaho Supreme Court has held that no special formula is necessary when medical opinion evidence plainly and unequivocally conveys a doctor's conviction that the events of an industrial accident and injury are causally related. *Paulson v. Idaho Forest Industries, Inc.*, 99 Idaho 896, 591 P.2d 143 (1979); *Roberts v. Kit Manufacturing Company, Inc.*, 124 Idaho 946, 866 P.2d 969 (1993).

18. Claimant asserts that he is entitled to benefits for the medical care he received for headache, nausea, hypotension, and vision disturbance on August 29, 2012. However, he has presented no medical evidence associating these conditions with the bee sting preceding those symptoms. Claimant understandably associates these symptoms with the bee sting due to the timing of their onset, and it is certainly possible that his assumption as to a causal link is correct. However, without a medical opinion supporting his claim on a more-probable-than-not basis, he has failed to prove by a preponderance of evidence that the bee sting caused his subsequent symptoms.

19. Claimant has failed to prove by a preponderance of evidence that he is entitled to medical care benefits related to his industrial bee sting.

CONCLUSIONS OF LAW

1. Claimant's bee sting arose out of and in the course of his employment.
2. Claimant has failed to prove that his industrial bee sting caused his subsequent symptoms requiring emergent care.

3. Claimant has failed to prove that he is entitled to medical benefits related to his industrial bee sting.

RECOMMENDATION

Based upon the foregoing Findings of Fact, Conclusions of Law, and Recommendation, the Referee recommends that the Commission adopt such findings and conclusions as its own and issue an appropriate final order.

DATED this 5TH day of SEPTEMBER, 2014.

INDUSTRIAL COMMISSION

/S/ _____
Douglas A. Donohue, Referee

ATTEST:

/S/ _____
Assistant Commission Secretary dkb

CERTIFICATE OF SERVICE

I hereby certify that on the 10TH day of SEPTEMBER, 2014, a true and correct copy of **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** were served by regular United States Mail upon each of the following:

RALEIGH D. STEDMAN
3327 15TH STREET
LEWISTON, ID 83501

H. JAMES MAGNUSON
P.O. BOX 2288
COEUR D'ALENE, ID 83814

dkb

/S/ _____

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ORDER

FILED SEP 10 2014

Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant's bee sting arose out of and in the course of his employment.
2. Claimant has failed to prove that his industrial bee sting caused his subsequent symptoms requiring emergent care.
3. Claimant has failed to prove that he is entitled to medical benefits related to his industrial bee sting.

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

DATED this 10TH day of SEPTEMBER, 2014.

INDUSTRIAL COMMISSION

Thomas P. Baskin, Chairman

/S/_____
R. D. Maynard, Commissioner

/S/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

/S/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 10TH day of SEPTEMBER, 2014, a true and correct copy of **ORDER** were served by regular United States Mail upon each of the following:

RALEIGH D. STEDMAN
3327 15TH STREET
LEWISTON, ID 83501

H. JAMES MAGNUSON
P.O. BOX 2288
COEUR D'ALENE, ID 83814

dkb

/S/_____