
UTAH LABOR COMMISSION

MICHAEL SILLS,

Petitioner,

vs.

**RUSHTON MASONRY and WORKERS
COMPENSATION FUND,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 06-0319

Michael Sills asks the Utah Labor Commission to review Administrative Law Judge Marlowe's denial of his claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to §63G-4-301 of the Utah Administrative Procedures Act and §34A-2-801(3) of the Utah Workers' Compensation Act.

BACKGROUND AND ISSUE PRESENTED

Mr. Sills claims workers' compensation benefits for an injury to his low back which he attributes to an accident that occurred on October 14, 1999, while working for Rushton Masonry ("Rushton"). Judge Marlowe held an evidentiary hearing on Mr. Sills's claim, and then referred the medical aspect of his case to an impartial medical panel.

Judge Marlowe accepted the panel's opinion that Mr. Sills suffered a back strain in the accident, but that his current low back problems were not caused by the accident. As a result, Mr. Sills's claim for benefits was denied. Mr. Sills challenges the denial of benefits on the grounds that his continuing low back problems were caused by the accident because he has not otherwise injured his lower back.

FINDINGS OF FACT

The Commission adopts Judge Marlowe's findings of fact, which are summarized as follows. On October 14, 1999, Mr. Sills was working for Rushton when he slipped and fell on his back and part of a cement mixer fell on his abdomen. Mr. Sills went to the emergency room where he was diagnosed with a back strain.

In February of 2000, Mr. Sills began visiting Dr. Sawchuk, who rated him at maximum medical improvement for his back strain on March 9, 2000. In September of 2002, Mr. Sills began seeing Dr. Brown, who diagnosed him with degenerative disc disease. Dr. Brown also opined that

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the accident caused Mr. Sills's low back problems. Dr. Marble, Rushton's medical expert, evaluated Mr. Sills in August of 2006, and found that Mr. Sills's low back problems were not caused by the accident.

In light of the conflicting medical opinions on the cause of Mr. Sills's low back problems, Judge Marlowe referred the claim to an impartial medical panel. The panel found that Mr. Sills suffered a back strain because of the accident, but that his current low back problems could not be attributed to the accident. Judge Marlowe adopted the panel's findings, and determined that Mr. Sills was not entitled to benefits for his low back injury because it was not medically caused by the accident.

DISCUSSION AND CONCLUSION OF LAW

Mr. Sills must demonstrate that his current low back problems were caused by his employment. Mr. Sills has shown that he suffered a back strain when he fell to the ground and part of a cement mixer fell on him, however, there are conflicting medical opinions about whether the accident also caused his current low back problems.

Because of the conflicting medical opinions, Mr. Sills's claim was referred to an impartial medical panel. After examining Mr. Sills and reviewing his medical records, the panel noted that Mr. Sills current back problems were not caused by the accident.

The medical panel's findings reflect the evidence of Mr. Sills's history of low back problems. The panel's opinion is persuasive because it is impartial in this matter and has the benefit of collegial review of Mr. Sills's relevant medical history as well as the opinions of the parties' own experts. For these reasons, the Commission accepts the medical panel's opinion. The Commission therefore concurs with Judge Marlowe's determination that Mr. Sills is not entitled to workers' compensation benefits for his low back injury.

ORDER

The Commission affirms Judge Marlowe's decision of June 28, 2007, on this matter. It is so ordered.

Dated this 14th day of October, 2009.

Sherrie Hayashi
Utah Labor Commissioner

IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.

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NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.