

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

JORGE RODRIGUEZ,

Applicant

vs.

SANTA ANA UNIFIED SCHOOL DISTRICT;
permissibly self-insured,

Defendants.

Case No. ANA 0353021

FINDINGS & ORDER

RECEIVED

JUN 06 2006

KENNITH L. PETERSON

3510
K/TK

WENZEL & ASSOCIATES, A LAW CORPORATION
By: Fern S. Rowe
Hearing Representative for Applicant

LAW OFFICES OF KENNITH L. PETERSON
By: Kenneth L. Peterson
Attorney for Defendant

The above-entitled matter having been heard and regularly submitted, the Honorable PAMELLA A. STONE, Workers' Compensation Judge, now makes her decision as follows:

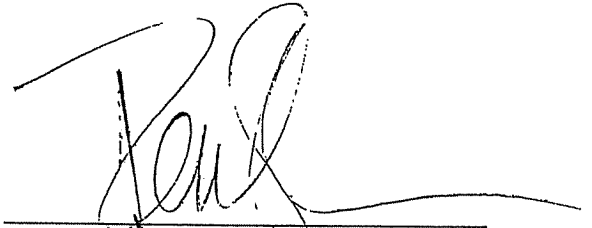
FINDINGS OF FACT

1. Jorge Rodriguez, born February 31, 1931, while employed on January 23, 2001, as a substitute teacher, at Santa Ana California by the Santa Ana Unified School District, sustained injury arising out of and in the course of employment to his right middle finger, bilateral hips, and low back.
2. At the time of injury, the employer was permissibly self-insured.
3. Based on the testimony of Mrs. Harrison and Mr. Contreras, the Court finds that the defendant, Santa Ana Unified School District, did not discriminate against this applicant in violation of Labor Code Section 132(a).

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

ORDER

IT IS ORDERED that the applicant take nothing by way of his application for increase benefits.



PAMELLA A. STONE

Workers' Compensation Administrative Law Judge

Filed and Served by mail on: JUN - 5 2008

On all parties on the
Official Address Record.

By: 
R. Vera

JORGE RODRIGUEZ
ANA 0353021

STATE OF CALIFORNIA
WORKERS COMPENSATION APPEALS BOARD

Case Number: ANA 0353021

JORGE RODRIGUEZ,

-vs.-

SANTA ANA UNIFIED SCHOOL
DISTRICT;
permissibly self-insured,

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE:

PAMELLA A. STONE

OPINION ON DECISION

VIOLATION OF LABOR CODE SECTION 132(a)

The applicant has alleged that after he sustained an industrial injury he was discriminated against by his employer. Applicant alleges that subsequent to his injury he did not receive as many substitute teacher assignments as he had before his industrial injury.

The Court notes that the parties stipulated in the Trial on the case in chief that the applicant had been compensated for temporary disability through July 4, 2002.

As of May 2001, Dr. Hunt had taken this applicant off work and he was placed on temporary disability status. The applicant testified at his Trial on the 132(a) that after his industrial injury he did not feel he would be able to work in the capacity as a substitute teacher.

The defendant offered the credible testimony of witness Vera Munoz Harrison who was the assistant superintendent of personnel. Mrs. Harrison testified that she had two conversations with this applicant about the fact that there were several elementary schools that had a "do not use" directive regarding this applicant substituting at their school. The witness indicated that after discussing the matter with the applicant in April

of 2001 that she felt bad for him and did allow the applicant to substitute at Remington and Franklin Elementary Schools and secondary schools.

Mrs. Harrison testified that at the time she spoke with the applicant she was not aware that he had filed a workers' compensation claim.

Mrs. Harrison testified that Jose Contreras who was in charge of the substitute teacher process came to the witness and indicated that there was a problem that the applicant had several "do-not-use" directives at many elementary schools within the district and that he did not know what to do.

Jose Contreras who was in charge of the substitute teacher list in 2001 testified that he also was not aware that the applicant had a workers' compensation claim at the time he approached Mrs. Harrison.

Mr. Contreras testified that he had spoken to Mrs. Harrison on several occasions regarding this problem concerning Mr. Rodriguez.

Mr. Contreras further indicated that if a school called or indicated that they did not wish a certain substitute to come back to that school, that teacher would be placed on the "do-not-use" list. Substitute teacher assignments were made by an automated system. If a school had a "do-not-use" directive for a teacher, they would automatically not be called for a job at that school. This was all part of the automated system process.

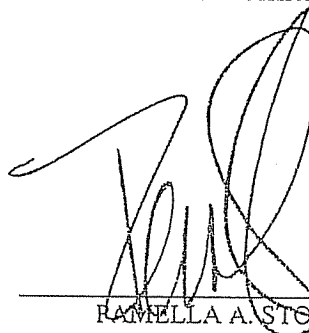
Based on the credible testimony of Mrs. Harrison and Mr. Contreras, the Court finds that the employer did not violate Labor Code Section 132(a). The applicant had multiple "do-not-use" directives. This Court finds that the witnesses who testified on behalf of the school district who were in charge of the substitute teacher program were

not aware that the applicant had a workers' compensation claim and there was no substantial evidence of discrimination by this employer against this applicant.

The Court orders that the applicant shall take nothing by way of his application for increase benefits pursuant to Labor Code Section 132(a).

ADMISSION OF DEFENDANT'S EXHIBIT C

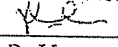
The Court based on the testimony of Mrs. Harrison who authenticated Defendant's Exhibit C-2 did admit that document into evidence. The remaining documents as objected to by the applicant's representative were not admitted into evidence.



PAMELLA A. STONE
Workers' Compensation Administrative Law Judge

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R. Vera