



Issue Date: 31 December 2008

CASE NO.: 2005-LHC-00876

OWCP NO.: 13-102956

In the Matter of:

W. B.,
Claimant,

vs.

SEA-LOGIX, LLC,
Employer,

and

SIGNAL MUTUAL INDEMNITY ASSOCIATION,
Carrier.

ORDER APPROVING STIPULATIONS AND AWARING BENEFITS

This is a claim for benefits under the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §§ 901 *et seq.*, ("the Longshore Act") filed by the Claimant for injuries he suffered while working for the Employer. On August 17, 2006, I issued a Decision and Order denying the claim on the basis that the Claimant was not an employee covered under the Longshore Act. On August 23, 2007, the Benefits Review Board ("BRB") reversed my finding that the Claimant was not covered by Section 2(3) of the Longshore Act, and remanded the case back to me for consideration of the remaining issues. After receiving the case file from the BRB and conducting a conference call with the parties, I set this matter for hearing on December 3, 2008, in San Francisco, California.

On December 2, 2008, I was notified by the parties that they had entered into stipulations which resolve the remaining issues in this case. In view of this development, I vacated the hearing and ordered the parties to submit their stipulations to me by January 5, 2009. The Stipulations on Remand ("Stipulations") and the parties' joint exhibits were received on December 8, 2009.

The parties' Stipulations seek to resolve all outstanding issues before the OALJ upon remand by the BRB. The parties stipulate as follows:

1. As a result of cumulative occupational activities when the Claimant was working as a truck driver for the Employer over the period of time from March 1, 2003, to October 7, 2005, the Claimant sustained injury to the cervical spine, lumbar spine, and bilateral upper extremities; **PROVIDED HOWEVER**, that the above stipulation of injury is without waiver of or prejudice to the rights of

the Employer and Carrier to seek review before the United States Ninth Circuit Court of Appeals of the above Decisions and Orders by the Benefits Review Board that the Claimant had covered “status” under 33 U.S.C. § 901, *et seq.*

2. There are no unpaid claims for temporary total disability for the period of employment from March 1, 2003, to October 7, 2005.
3. There are no unpaid claims for permanent partial disability on a wage loss basis under 33 U.S.C. § 921 for injury to the cervical spine and lumbar spine for the period of employment from March 1, 2003, to October 7, 2005.
4. There are no unpaid claims for permanent partial disability on a scheduled basis under 33 U.S.C. § 921 for injury to the bilateral upper extremities for the period of employment from March 1, 2003, to October 7, 2005.
5. Claimant is entitled to medical care and payment of medical expenses under 22 U.S.C. § 907 for past and future medical treatment, reasonably related to the injuries to the cervical spine, lumbar spine, and bilateral upper extremities.
6. The Employer authorizes Fred Blackwell, M.D., as the treating physician for the injuries to the cervical spine and lumbar spine; and further authorizes treatment of the upper extremities upon referral by Dr. Blackwell to such upper extremity specialist as Dr. Blackwell may designate.
7. These stipulations are without waiver of or prejudice to the rights of Claimant to later seek an award of attorney’s fees and costs.

After reviewing the Stipulations and their supporting documents, I find the Stipulations appear to be reasonable, adequate and not the result of duress. I note that these Stipulations do not waive the Respondents’ right to appeal the BRB’s decisions regarding the Claimant’s status under the Longshore Act. Moreover, in light of the Respondents’ intent to appeal those decisions, I will hold in abeyance the issue of the Claimant’s counsel’s right to attorney fees and costs, pending the outcome of the Respondents’ appeal. Accordingly, the Stipulations are hereby approved.

The parties are ORDERED to implement the terms of the approved Stipulations as specifically stated in the Stipulations.

A

JENNIFER GEE
Administrative Law Judge

San Francisco, California