

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

Case Nos.:

Applicant

vs.

and Insurance ,

Defendants.

**FINDING
OPINION ON DECISION**

The above-entitled matter having been formally submitted,
Workers' Compensation Administrative Law Judge, now makes her decision as
follows:

FINDING

Applicant, did not sustain injury to his neck and bilateral
shoulders during the course and scope of his employment with

OPINION ON DECISION

Applicant, _____ claimed that on February 21, 2022 while he was in a shipping cage, picking up orders, a gate fell on him. As the gate was falling, the applicant claimed that he had to use both his hands to prevent it from crushing him to the ground. He used his head to balance the fence, eventually pressing the fence off of his head away from his body. Applicant claimed to have reported his injury to his supervisor.

It was not until March 7, 2022 that applicant went to see a physician regarding the alleged February 21, 2022 incident. Applicant at trial claimed that he did not see a physician until March 7, 2022 because he was waiting for his employer to process the workers' compensation paperwork.

Defense witness, _____ testified that on February 21, 2022, she was working with Mr. _____. She was the one who asked Mr. _____ to get an item from the cage. She went directly to the cage with Mr. _____ to collect the item she requested. She was at the gate when Mr. _____ arrived with the forklift. She watched him during the entire time. Although he had a difficult time opening the gate, the gate did not fall on him. According to Ms. _____ the gate did come off its hinges but never fell.

Although the panel qualified examiner found that applicant's injury was industrial, the medical examiner was relying on history of injury provided by the applicant.

Applicant clearly has something wrong with his neck and bilateral shoulders but after listening to defense witness, Ms. I am convinced a gate never fell on Mr.

Whatever is going on with Mr. physically has nothing to do with his employment at

DATE: 08/29/2023

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

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