

COMPENSATION NEWS

MONTHLY REPORT

In an Opinion on Decision After Reconsideration Board discusses applicant working at home

This is a decision by the WCAB after reconsideration

The applicant had an injury on November 15, 2000, while employed by homeowners as a painter. He had a very serious injury. He was an Australian temporarily in California. The applicant did not testify at trial. There was no deposition taken of the applicant, no affidavit, or statement offered into evidence.

The Workers' Compensation

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Judge (WCJ) found the injury industrial related. The defendant filed a petition for reconsideration.

The Workers' Compensation Appeals Board (WCAB) issued this decision as a significant panel decision.

The WCAB analyzed Labor Code sections 3351 (d) and 3352 (h). The applicant did not work for a licensed contractor. The defendant argued this two sections were applicable to the facts since the applicant did not work 52 hours or earn at least \$100.00 in the 90 days prior to his injury.

The Board found the applicant was an employee under Labor Code section 3715 (b). They determined 3715 (b) applies

to all residential employees even if there is homeowners insurance.

The Legislature intended that three types of residential employees would be covered under this section. They indicated if the applicant would have been covered by the law in effect prior to January 1, 1977, and the work to be performed was contemplated to last more than 10 days or the total labor cost was at least \$100 the applicant was covered.

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