BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON

IN RE: RUSSELL C. HYLTON	**)**	**DOCKET NO. 15 11053**
	)	
CLAIM NO. AT-86280	**)**	**DECISION AND ORDER**

Russell Hylton sustained a significant tear of the anterior cruciate ligament (ACL) in his left knee in May 2013, while working for Holroyd Company, Inc. The Department allowed this claim and closed it. Mr. Hylton's knee condition worsened after his claim was closed, he filed an application to reopen his claim; and the Department reopened it. Holroyd argues the worsening in Mr. Hylton's knee was not industrially related, but resulted from a subsequent superseding event occurring at home. Our industrial appeals judge determined the worsening in Mr. Hylton's knee was due to the new incident at home. She did not believe the worsening in Mr. Hylton's knee was caused by his industrial injury and directed the Department to deny the reopening application. We find Mr. Hylton's left knee condition has worsened and that the worsening was proximately caused by his industrial injury. The Department order is **AFFIRMED.**

DISCUSSION

Factual Basis

Russell Hylton was a 51-year-old man working as a concrete truck driver for Holroyd when he had an industrial injury on May 24, 2013. While climbing on his truck to check fluid levels, his left knee gave out and he fell off the truck. He was treated that same day by a physician's assistant who misdiagnosed his condition as a knee sprain. Mr. Hylton's symptoms did not resolve and an MRI revealed he had a "poorly defined tear"[1] of his ACL, along with a severe knee sprain. Based on the MRI findings, Mr. Hylton was referred to William F. Thompson, M.D., an orthopedic surgeon who specializes in treating joint injuries. In the meantime, Mr. Hylton returned to work a couple of weeks after his injury, and continued driving until December 2013.

Dr. Thompson first treated Mr. Hylton on June 13, 2013. Based on his clinical findings and the MRI, he believed Mr. Hylton's industrial injury resulted in a very significant, if not a complete, tear of his ACL. This was based on the degree of laxity and swelling he observed in the knee and on his interpretation of the MRI. The MRI showed a bone bruise, indicating that a knee bone got way out of position during the fall, striking another bone. This bone bruise could only have occurred if the ACL was completely torn or so completely torn that it was an "incompetent ligament"[2] that did

[1] Thompson Dep. at 12-13.
[2] Thompson Dep. at 13, 18-19.

not hold the knee in place. Dr. Thompson did not recommend surgical treatment in 2013 because Mr. Hylton was at increased risk of a poor outcome due to his age, obesity that had resulted in diabetes, and his cigarette smoking. Dr. Thompson recommended conservative treatment, including physical therapy, to build up the muscles in his leg. The goal was to stabilize the knee and reduce the laxity. He saw Mr. Hylton several times before his claim was closed on October 31, 2013. As of September 6, 2013, Dr. Thompson believed Mr. Hylton's knee condition had stabilized and that his claim should be closed with a permanent partial disability award equal to 17 percent of the left leg above the knee joint. He based his rating on the laxity he noted in the knee and on Mr. Hylton's loss of function. This rating was consistent with moderate laxity of the ACL, according to both Lance N. Brigham, M.D., who testified for Holroyd, and Joan Sullivan, M.D., who testified for the Department. Dr. Thompson released Mr. Hylton to work with a permanent restriction: he was to continue wearing his knee brace. Mr. Hylton's claim was closed on October 31, 2013, with a permanent partial disability award consistent with Dr. Thompson's rating.

Mr. Hylton testified his knee was problematic after his claim was closed. It would pop out of joint repeatedly, even though he was wearing his brace. He had pain all the time but was not alarmed because Dr. Thompson had told him he would experience occasional pain and his knee condition would gradually improve. However, on December 23, 2013, Mr. Hylton's knee symptoms became excruciating, resulting in a trip to a Group Health urgent care center. He was cleaning out a pellet stove in his home. While getting up to a standing position, his left foot slipped on a dog bone. His knee gave out, becoming acutely painful and swollen. A new MRI was taken that showed the ACL was completely torn and that he also had meniscal tears caused by the laxity in the knee due to the tear.

Mr. Hylton returned to Dr. Thompson on April 15, 2014. Dr. Thompson noted increased swelling and a decreased range of motion in the knee. Dr. Thompson concluded Mr. Hylton's industrially related knee condition had worsened since his claim was closed based on Mr. Hylton's complaints of increased pain and disability; his clinical findings; and the most recent MRI. He recommended surgical treatment because conservative treatment had obviously failed. Furthermore, Mr. Hylton had stopped smoking and his diabetes was under control, making him a better surgical candidate. Dr. Thompson filed an application to reopen Mr. Hylton's claim by the end of April 2014.

On July 25, 2014, Joan Sullivan, M.D., an orthopedic surgeon, examined Mr. Hylton at the Department's request to determine whether his claim should be reopened. She concluded it should be reopened because there were objective findings of worsening and Mr. Hylton's limitations had increased. She endorsed Dr. Thompson's initial recommendation to proceed with conservative treatment rather than surgery while the claim was originally open. But she agreed surgical treatment was appropriate as of 2014. She testified the June 2013 MRI showed marked swelling in the knee, as well as an ACL that was probably completely torn based on the presence of the bone bruise. She added that 80 percent of patients with an acute ACL injury such as Mr. Hylton's will have meniscal tears within two years of their injury. They frequently injure themselves in "low energy"[3] activities, such as walking. She noted effusion and muscle atrophy in the left leg during her examination, which were findings Mr. Hylton's knee condition had worsened since claim closure. She testified Mr. Hylton had to completely alter his lifestyle after his claim was closed because his knee regularly popped out. The popping-out phenomenon, which she called a pivot shift, occurred during her examination. This was also an objective finding of worsening because Mr. Hylton's knee was stable without any pivot shift noted when Dr. Thompson last saw him prior to claim closure in September 2013. Finally, Dr. Sullivan believed the aggravation of Mr. Hylton's knee condition was caused by his industrial injury rather than the incident where he slipped on a dog bone, or a subsequent event where his knee gave out when he was pushed by someone. She did not consider either incident a superseding cause of his need for treatment because they did not cause any additional damage to his knee. In short, Dr. Sullivan believed Mr. Hylton's industrially related left knee condition worsened, resulting in increased impairment and disability between October 31, 2013, when his claim was closed, and October 17, 2014, the date of the order under appeal. When Mr. Hylton's claim was closed, he had moderate instability in his knee, but as of the latter date it had become severe, which would merit an increased disability award.

Holroyd relied on the testimony of two forensic experts who reviewed Mr. Hylton's medical records after filing this appeal. Lance N. Brigham, M.D., a retired orthopedic surgeon, testified Mr. Hylton had a partial tear of his left knee ACL due to his injury. He agreed surgery was not appropriate before claim closure. He testified Mr. Hylton's home incident (slipping on a dog bone) caused a complete ACL tear, as shown on the January 26, 2014 MRI. He therefore agreed Mr. Hylton's knee condition worsened since his claim was closed. However, he attributed the

[3] Sullivan Dep. at 21-22.

worsening to a superseding incident, the accident at home. Dr. Brigham testified Mr. Hylton would not have required medical treatment but for this slip between the date his claim was closed in October 2013 and the date of the order under appeal in October 2014. Marc F. Bodow, M.D., an occupational medicine specialist, had very similar testimony. He agreed Mr. Hylton's knee condition worsened during this period. He also believed the worsening was caused by Mr. Hylton's home injury, when his foot slipped on the dog bone.

Neither of these physicians examined Mr. Hylton. Furthermore, Dr. Bodow had less knowledge of the specifics of Mr. Hylton's medical history than the other physicians. For example, he was unaware Mr. Hylton had returned to work or of his work restriction (for example, wearing the knee brace prescribed by Dr. Thompson). Accordingly, these physicians had less of a factual basis for their opinions than the Department's medical witnesses. Dr. Sullivan had examined Mr. Hylton's knee. Dr. Thompson, the attending physician, had seen him repeatedly, both before and after claim closure.

Analysis

To reopen this claim there must be medical evidence, based in part on objective medical findings, that the condition proximately caused by Mr. Hylton's industrial injury worsened between the date his claim was closed (the first terminal date) and the date of the order under appeal (the second terminal date).[4] There is no question that Mr. Hylton's knee condition worsened between the terminal dates; all the physicians agreed about that. The evidence of worsening is substantial, as demonstrated by these findings made by the four medical witnesses:

1. Increased MRI findings. While the radiologist interpreting the initial 2013 MRI indicated it showed a poorly defined tear of the ACL, Dr. Thompson testified the ACL was either completely torn, or so significantly torn that it was essentially dysfunctional, when it was taken. Dr. Sullivan believed Mr. Hylton's ACL was entirely torn in his industrial injury. Both doctors linked these MRI findings to the first terminal date. The 2014 MRI unequivocally showed an utterly torn ACL. It also disclosed torn menisci, according to Dr. Thompson, or chondromalacia (damage to the meniscal cartilage), according to Dr. Sullivan. Both physicians agreed any damage to the meniscal cartilage was caused by the ACL tear. They also linked the findings in the second MRI to the second terminal date.
2. Swelling in the knee.
3. Increased laxity in the knee (frequent pivot shifts, or episodes where the knee gave out). Dr. Thompson could not elicit a pivot shift the last time he treated

[4] *Moses v. Department of Labor & Indus.*, 44 Wn.2d 511 (1954); *Phillips v Department of Labor & Indus*., 49 Wn.2d 195 (1956).

Mr. Hylton prior to claim closure, but Dr. Sullivan elicited a pivot shift when she examined him.

4. Decreased range of motion in the knee.
5. Muscle atrophy in the left leg, due to his antalgic gait (for example, limping, favoring the right leg).

The worsening of Mr. Hylton's knee condition caused increased disability that significantly altered his life. By the second terminal date in October 2014, Mr. Hylton was restricted to light-duty work. He could no longer work as a truck driver because Holroyd had no such available work. His activities at home were also greatly restricted because he lacked stability and strength in his knee.

The pivotal issue before us is whether the worsening of Mr. Hylton's knee condition was proximately caused by his industrial injury or the subsequent intervening injury, the slip on the dog bone incident at home. Holroyd must prove Mr. Hylton's home accident caused a worsening in his knee independent of his industrially related condition to establish it is a supervening cause, justifiying the denial of his reopening application. If on the other hand, but for Mr. Hylton's original industrial injury he would not have had a complete ACL tear requiring surgery following this incident, the Department's decision to reopen the claim should be affirmed.[5] We have concluded the causal chain between Mr. Hylton's industrial injury and his worsened knee condition was not broken.

Our test for determining whether a worker's claim should be reopened after a subsequent incident, as stated above, is set forth in the *Robert Tracy* significant decision. After Mr. Tracy's claim for a back injury was closed, he sought treatment for back symptoms that started while he was washing and waxing his van. The Board held the test for determining whether Mr. Tracy's claim should be reopened is whether he would have required treatment for back pain while washing his van "but for" his industrially related back conditions. The Board reaffirmed this holding in a subsequent significant decision, *In re Mary Wardlaw*.[6] In *Wardlaw*, the Board acknowledged a post-closure incident could be considered both a new injury and an aggravation of an industrially related condition. Mary Wardlaw had three hernia repair surgeries under her claim. Following an incident in which she was bumped or "roughed up" by police wrongly called to her home, she needed a fourth one. Even though Ms. Wardlaw had clearly sustained a new injury in this incident, the Board held her claim should be reopened. The new incident was not a supervening cause of

[5] *In re Robert Tracy,* BIIA Dec., 88 1695 (1990).
[6] *In re Mary Wardlaw,* BIIA Dec., 88 2105 (1990).

her need for treatment. Because Ms. Wardlaw would not have needed surgery following the police incident but for her industrial injury and the resulting hernia surgeries, it did not break the causal chain linking her current need for treatment to her work injury.

Applying the "but for" causation test in these two significant decisions, we affirm the Department's decision to reopen Mr. Hylton's claim. Both Drs. Thompson and Sullivan agreed his slip on a dog bone while cleaning his stove would not have resulted in a need for knee surgery but for the ACL tear caused by the original injury. More specifically, Dr. Thompson testified the industrial injury resulted in a dysfunctional ligament that was either entirely or almost completely torn. While physical therapy had essentially stabilized the knee so that it was functional when the claim was closed, the foot slip resulted in symptoms requiring surgical treatment. However, someone with a normal knee would not have required surgery following that incident. Dr. Thompson explained that the foot slip resulted in a particularly painful pivot shift, but that Mr. Hylton had been experiencing more pivot shifts and pain following claim closure. As a result, his claim would have had to be reopened in any event by the second terminal date due to his increased disability. Dr. Sullivan strongly agreed.

The testimony of Holroyd's medical experts is not on point. They testified Mr. Hylton would not have needed medical treatment for his knee between the terminal dates but for the dog bone incident. This is not the correct legal standard. The issue is not whether Mr. Hylton would have obtained treatment but for this incident. Rather, it is whether that incident would have resulted in a need for surgery to treat a torn ACL but for Mr. Hylton's industrially related knee condition. In this case, both Mr. Hylton's attending surgeon and the orthopedist who conducted an independent medical examination concluded the slip would not have resulted in the need for surgery if not for the damage to the preexisting damage to the knee caused by the industrial injury. The dissenting opinion that follows does not acknowledge the fact that the industrial injury significantly weakened the knee so that a minor slip, which likely would have little effect on a healthy knee, resulted in the need for surgery.

It is also settled law that if the activity that caused the aggravation of an industrially related condition is something a worker with Mr. Hylton's limitations could reasonably be expected to be doing, it is not considered a supervening cause of his resulting condition.[7] As the supreme court made clear in its *McDougle* decision, as long as a worker is engaged in an activity he reasonably

[7] *McDougle v. Department of Labor & Indus.*, 64 Wn.2d 640 (1964).

could be expected to be doing based on his limitations as of the first terminal date, worsening attributable to that activity would not break the causal chain.[8] When Mr. Hylton's claim was closed, he was released to work full time at his job of injury, with only one restriction, which was to use a knee brace at work. The slipping on a dog bone incident occurred while he was doing an activity well within his limitations: kneeling to clean a stove and rising to a standing position. Cleaning out his only heat source was a reasonable activity for Mr. Hylton. This home incident is not considered a supervening incident, based on the supreme court decision regarding Mr. McDougle, and the *Robert Tracy* significant decision discussed previously.

Although the dissent claims that the injury at home was not a foreseeable result of the industrial injury, the courts in this state have never used a foreseeability test for determining causation in our no-fault industrial insurance scheme. Even if we were to apply a foreseeability test, we think the proper inquiry is whether it is foreseeable that someone with a weakened knee might slip and cause further damage to the knee. Mr. Hylton's knee had remained problematic since claim closure. The knee was characterized by its laxity and would "pop out" and become painful on occasion. It was foreseeable that a minor slip could result in further damage to the knee. Accordingly, even if a foreseeability test applied to proximate cause determinations in workers compensation, we do not believe application of foreseeability would work to break the causal chain in this matter.

In conclusion, the Department's decision to reopen this claim is correct because Mr. Hylton's industrial injury was a proximate cause of his aggravated knee condition.

DECISION

The employer, Holroyd Company, Inc., filed a protest with the Department of Labor and Industries on December 15, 2014. The Department forwarded it to the Board of Industrial Insurance Appeals as an appeal. The employer appeals a Department order dated October 17, 2014. This order affirmed a September 2, 2014 order in which it reopened the claim effective April 15, 2014. This order is correct and is affirmed.

FINDINGS OF FACT

1. On March 19, 2015, an industrial appeals judge certified that the parties agreed to include the amended Jurisdictional History in the Board record solely for jurisdictional purposes.

[8] *McDougle; Scott Paper Co. v. Department of Labor & Indus.*, 73 Wn. 2d 840 (1968).

2. Russell C. Hylton sustained an industrial injury on May 24, 2013, during the course of his employment as a concrete truck driver for Holroyd Company, Inc. While climbing on his truck to check fluid levels, his left knee gave out and he fell off his truck. While an MRI report indicated he had a poorly defined tear of his anterior cruciate ligament (ACL), he was diagnosed with a significant, if not a complete tear, of his ACL by his attending orthopedic surgeon. He also sustained a knee sprain.

3. As of October 31, 2013, Mr. Hylton's knee condition proximately caused by his industrial injury was fixed and stable. Based on the MRI findings and clinical findings of moderate laxity of the ACL, he had a permanent partial disability equal to 17 percent of the amputation value of his left leg at or above the knee joint with short thigh stump (3" or less below the tuberosity of the ischium). He had been released to return to his job of injury. His only restriction was to wear a knee brace while working.

4. Between October 31, 2013, and December 23, 2013, Mr. Hylton's knee repeatedly popped out of joint (gave out) even while he was wearing his brace. On December 23, 2013, while cleaning out a stove at home, Mr. Hylton's foot slipped on a dog bone while he rose from a kneeling to standing position. As a result, his knee gave out again. Mr. Hylton's activity of cleaning out a stove was a reasonable activity given his industrially related impairment, consistent with the limitations imposed by his attending physician.

5. Mr. Hylton's left knee condition objectively worsened between October 31, 2013, and October 17, 2014, as shown by the following medical findings: MRI findings unequivocally showing an utterly torn ACL and torn or damaged meniscal cartilage, caused by the ACL tear; swelling; increased laxity; decreased range of motion; and muscle atrophy in the left leg, due to his antalgic gain. As of October 17, 2014, Mr. Hylton had severe instability in his left knee, consistent with a permanent partial disability award greater than 17 percent of his left leg at or above the knee joint. As a result of his worsened knee condition, Mr. Hylton was restricted to light-duty work and required surgery to treat his torn ACL.

6. The aggravation of Mr. Hylton's left knee condition between October 31, 2013, and October 17, 2014, was proximately caused by his May 24, 2013 industrial injury. The December 23, 2013 home accident was not a superseding cause of his worsened knee condition. But for the knee impairment proximately caused by his industrial injury, he would not have required further medical treatment, including surgery to treat his torn ACL, due to the December 23, 2013 incident.

CONCLUSIONS OF LAW

1. The Board of Industrial Insurance Appeals has jurisdiction over the parties and subject matter in this appeal.

2. Between October 31, 2013, and October 17, 2014, Mr. Hylton's left knee condition proximately caused by his industrial injury objectively worsened, within the meaning of RCW 51.32.160.

3. As of April 15, 2014, the effective date Mr. Hylton's claim was reopened, he was in need of further medical treatment for his industrially related knee condition.

4. The October 17, 2014 Department order is correct and is affirmed.

Dated: April 7, 2016.

BOARD OF INDUSTRIAL INSURANCE APPEALS

/s/_____
DAVID E. THREEDY Chairperson

/s/_____
FRANK E. FENNERTY, JR. Member

DISSENT

The issue before this Board requires that the Board determine whether Mr. Hylton's injury at home when he slipped on a dog bone is an event covered by the Industrial Insurance Act (Act). This determination requires an application of the law of proximate cause. The majority incorrectly applies the law of proximate cause and in doing so extends coverage under the Act to an injury that occurred after Mr. Hylton's claim was closed and that had no connection to his employment. In doing so the majority effectively grants Mr. Hylton general medical and disability insurance for his knee condition in contravention of the purpose of the Act. I dissent.

Washington law recognizes two elements to proximate cause: Cause in fact and legal causation. *Hartley v. State*, 103 Wn.2d 768 (1985). Cause in fact refers to the "but for" consequences of an act, that is, the physical connection between an act and an injury. The question is: what has in fact occurred. Legal causation, however, rests on policy considerations as to how far the consequences of an act should extend. It involves a determination of whether liability should attach as a matter of law given the existence of cause in fact. This determination will be

dependent on considerations of logic, common sense, justice, policy, and precedent. *Hartley*, at 779. Washington courts have applied this two-prong proximate-cause analysis to the industrial insurance act. *Jenkins v. Weyerhaeuser Co*., 143 Wn. App. 246 (2008).

The majority's decision relies exclusively on the 'but for" causation element. Legal causation is as much a part of the proximate-cause analysis as is cause in fact. Left unaddressed in the majority opinion is the element of legal causation, namely whether, given considerations of logic, common sense, and public policy, liability should attach as a matter of law.

Mr. Hylton's claim was closed in October 2013 with a permanent partial disability award equal to 17 percent of the left leg. In December 2013 Mr. Hylton slipped on a dog bone in his home. This injury at home resulted in Mr. Hylton's need for treatment.

The majority relies on two prior Significant Decisions of this Board in support of its decision that Mr. Hylton's injury at home is the responsibility of the prior industrial insurance claim. But in both cases, *In re Robert Tracy*, BIIA Dec., 88 1695 (1990) and *In re Mary Wardlaw*, BIIA Dec., 88 2105 (1990), the Board incorrectly applied the law of proximate cause. Both cases ignore the legal-cause prong of proximate cause and focus exclusively on the "but for" factual cause analysis. *Tracy* and *Wardlaw* were wrongly decided. The majority's decision in relying on these cases to reach its decision in this appeal perpetuates the incorrect analysis of proximate cause. *Tracy* and *Wardlaw* should be abandoned by the Board and the correct analysis on proximate cause clearly articulated.

In *Stertz v. Industrial Insurance Comm*., 91 Wash. (1916) the court acknowledged that the Act was of a great compromise between employers and employed. All agreed that an injury to workers in the course of employment was a cost of production and that industry should bear the charge. Clearly the Act was not intended to provide general health and disability coverage to workers. Yet the majority's decision does just that.

Mr. Hylton's left knee did not worsen as that term is commonly used; rather, Mr. Hylton sustained a new injury to his knee, an injury unassociated with his employment. It is not logical to impose the burden of this separate injury on the industrial insurance fund. Additionally, to do so burdens the industrial insurance fund with costs unassociated with the cost of production, which goes against one of the basic tenets of the Act.

Finally, the majority decision fails to adequately address the issue of superseding or intervening cause. A superseding cause is an intervening act that breaks the sequence and

relieves a defendant from liability. To be a superseding cause, an intervening act must be one that is not reasonably foreseeable. *State v. Roggenkamp,* 115 Wn. App. 927 (2005). The Board has recognized the doctrine of superseding/intervening cause in prior decisions, and has correctly applied the doctrine. In *In re Barry J. Hinton,* Dckt. No. 04 25191 (December 20, 2005), the Board found that although the worker sustained an injury to his shoulder, a subsequent motor vehicle accident that injured the same shoulder was a superseding and intervening cause and the condition was not proximately caused by the industrial injury.

It was not reasonably foreseeable that Mr. Hylton would allow dog bones on the floor of his home and that he would fail to see the bone and step on it and slip, injuring himself. Mr. Hylton's deliberate act of allowing dog bones to lie about on the floor of his home and his failure to maintain a safe environment to walk in his home are superseding/intervening causes that broke the chain of causation between his industrial injury and his knee injury at home.

Additionally, the majority's reliance on *McDougle v. Department of Labor & Indus*., 64 Wn.2d 640 is misplaced. In *McDougle* the court determined that not all exacerbations of a covered condition constitute some type of intervening cause thus denying reopening. The court required that the inquiry in aggravation cases required a determination of the reasonableness of the **activity** that caused the exacerbation of the condition. If the worker was acting reasonably given limitations imposed by the industrial injury, then the activity that produced the exacerbation of the condition would not be an intervening cause and the industrial injury would be responsible for the aggravation. If Mr. Hylton had injured his left knee due to kneeling while performing the activity of cleaning the stove, it would be a reasonable contention that the worsening occurred while performing a reasonable activity. However, the activity that caused the left knee worsening had nothing to do with cleaning the stove, but instead was a new injury due to the activity of stepping on a dog bone he had left laying around. This is no different than if Mr. Hylton had injured his left knee by stepping and slipping on a dog bone while walking to the store to buy a broom to clean the stove. The activity of stepping on a dog bone at home or while walking to the store are both superseding/intervening activities. The majority's leap in connecting the activity of slipping on a dog bone with the activity of cleaning the stove defies logic and common sense. This illogical extension would make the Department and employer forever responsible for all conditions ever allowed on any workers' compensation claim even if the new injury had no connection to employment and did not occur while performing a reasonable activity.

McDougle is not an abrogation of the law of proximate cause. By relying on the court's decision in *McDougle* the majority continues to misapply the law of proximate cause. *McDougle* has no application to the facts in this case.

On the facts presented in this appeal, I would find that the industrial injury was not the proximate cause of Mr. Hylton's need for treatment following his injury at home and that Mr. Hylton's slip on the dog bone at home was a superseding/intervening cause of his injury.

Dated: April 7, 2016.

BOARD OF INDUSTRIAL INSURANCE APPEALS

/s/_____
JACK S. ENG Member

Addendum to Decision and Order
In re Russell C. Hylton
Docket No. 15 11053
Claim No. AT-86280

Appearances

Claimant, Russell C. Hylton, Pro Se

Employer, Holroyd Co., Inc., by K Solutions Law, per Brian M. Padgett

Retrospective Rating Group, Smart Association A Team Retro Group #10005, None

Department of Labor and Industries, by The Office of the Attorney General, per Lionel Greaves IV

Petition for Review

As provided by RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review and decision. The Department filed a timely Petition for Review of Proposed Decision and Order, issued on December 8, 2015, in which the industrial appeals judge reversed and remanded the Department order dated October 17, 2014. Holroyd filed a Reply to the Department's Petition for Review, which was also considered in writing this decision.

Evidentiary Rulings

The Board has reviewed the evidentiary rulings in the record of proceedings and finds that no prejudicial error was committed. The rulings are affirmed.