

In the Matter of the Compensation of
SCOTT P. VINCENT, Claimant

WCB Case No. 05-02595, 05-00159

ORDER ON REVIEW

Glen J Lasken, Claimant Attorneys
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Reviewing Panel: Members Kasubhai and Langer.

Claimant requests review of Administrative Law Judge (ALJ) Davis' order that: (1) upheld the SAIF Corporation's denial of his new or omitted medical condition claim for an L3-4 disc herniation; and (2) upheld the denial of an occupational disease claim for the same condition, issued by City County Insurance Services (CIS). On review, the issues are compensability and, potentially, responsibility.

We adopt and affirm the ALJ's order with the following supplementation.

The ALJ found that a compensable 1997 injury for which SAIF was responsible was neither the major, nor a material, contributing cause of claimant's disability or need for treatment of the claimed low back disc herniation. The ALJ further determined that claimant's work exposure as a law enforcement officer was not the major contributing cause of the claimed low back condition, nor of a combined condition and pathological worsening of that condition.

On review, claimant asserts that the ALJ did not address whether "both employment exposures" satisfied compensability. Claimant further asserts that the opinion of Dr. Belza, a treating physician familiar with his work exposure, persuasively established that his work activity for both employers was the major contributing cause of the claimed low back condition. Based on the following, we disagree.

As a rule of proof, the last injurious exposure rule (LIER) allows claimant to establish the compensability of an occupational disease without having to prove the degree, if any, to which exposure to disease-causing conditions at a particular employment actually caused the disease. Claimant need only prove that the disease was caused by employment-related exposure. *Roseburg Forest Products v. Long*, 325 Or 305, 309 (1997). This is true under the LIER even if work exposure at more than one employment was the major contributing cause of the condition. *Roger L. Hagger*, 55 Van Natta 637, 639 n 6 (2003), *aff'd without opinion*, *Grants Pass S.D. No. 7 v. SAIF*, 193 Or App 163 (2004).

For the reasons expressed by the ALJ, we agree that claimant's work exposure was not the major contributing cause of the claimed low back condition. Accordingly, we affirm.

ORDER

The ALJ's order dated September 22, 2006 is affirmed.

Entered at Salem, Oregon on April 11, 2007