

BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:

SANTA ROSA CITY TRANSIT AND PARKING DEPT
P.O. Box 1678
Santa Rosa, CA 95402-16678

Employer

Docket No. 05-R1D5-1417

**DECISION AFTER
RECONSIDERATION**

The Occupational Safety and Health Appeals Board (Board), acting pursuant to authority vested in it by the California Labor Code and having taken this matter under reconsideration on its own motion, renders the following decision after reconsideration.

JURISDICTION

On March 4, 2005, the Division of Occupational Safety and Health (the Division) issued to Santa Rosa City Transit and Parking Dept (Employer) one Citation alleging one violation of Title 8, Cal. Code of Regulations, section 342(a) [reporting requirement for serious injury or illness].¹ Employer filed a timely appeal contesting the Citation.

This matter came on regularly for a scheduled hearing before an Administrative Law Judge (ALJ) of the Board. In lieu of evidence, the parties submitted stipulated facts. The facts did not contain a description of how the injury occurred, but rather contained facts regarding the progression of the injury to the point it required surgery, and Employer's knowledge of the employee's hospitalization in excess of 24 hours in connection with the surgery, which occurred some months after the initial injury. Employer was cited for failing to report this injury.

A decision was issued September 14, 2007, affirming the citation.

On October 19, 2007, the Board ordered reconsideration of the decision on its own motion to resolve the following issue:

Was the injury reportable under section 342(a)?

¹ References are to California Code of Regulations, title 8, unless otherwise noted.

The Division submitted an answer to the Order of Reconsideration. Employer did not.

DECISION AFTER RECONSIDERATION

After review of the decision of the ALJ, and the briefs and Answer submitted, as well as the stipulated facts, the Board hereby affirms the Decision issued on September 14, 2007. We conclude that the ALJ correctly analyzed the question of whether the Employer was required to report the incident according to the language of section 342(a). Although the Board has issued several Decisions After Reconsideration analyzing penalty assessments in section 342(a) cases since the time of this ALJ Decision, we decline to address this issue herein because the propriety of the penalty amount was not listed as an issue for reconsideration in the Order.

Therefore, ALJ's Order is affirmed and is reinstated.

ART R. CARTER, Chairman
CANDICE A. TRAEGER, Board Member
ED LOWRY, Board Member

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
FILED ON: OCTOBER 6, 2011