

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

ALBERTO BARRIOS, *Applicant*

vs.

**JOHN HARRISON CONTRACTING, INC.; CYPRESS INSURANCE COMPANY,
*Defendants***

**Adjudication Number: ADJ17764448
Riverside District Office**

**OPINION AND ORDER
GRANTING RECONSIDERATION
ON APPEALS BOARD MOTION PURSUANT
TO LABOR CODE SECTION 5900(b)
AND DECISION AFTER RECONSIDERATION**

A workers' compensation administrative law judge (WCJ) issued a Findings and Orders in this matter served on December 15, 2025. In the decision, it was found that applicant's claim that while employed on July 13, 2022, as an HVAC technician, he sustained industrial injury to his neck, back and "body systems, specifically stress and anxiety" was barred by the Labor Code section 3600(a)(10) post-termination defense, which states, in pertinent part:

(a) Liability for the compensation provided by this division, in lieu of any other liability whatsoever to any person except as otherwise specifically provided in Sections 3602, 3706, and 4558, shall, without regard to negligence, exist against an employer for any injury sustained by his or her employees arising out of and in the course of the employment and for the death of any employee if the injury proximately causes death, in those cases where the following conditions of compensation concur:

(10) Except for psychiatric injuries governed by subdivision (e) of Section 3208.3, where the claim for compensation is filed after notice of termination or layoff, including voluntary layoff, and the claim is for an injury occurring prior to the time of notice of termination or layoff, no compensation shall be paid unless the employee demonstrates by a preponderance of the evidence that one or more of the following conditions apply:

(A) The employer has notice of the injury, as provided under Chapter 2 (commencing with Section 5400), prior to the notice of termination or layoff.

(B) The employee's medical records, existing prior to the notice of termination or layoff, contain evidence of the injury.

(C) The date of injury, as specified in Section 5411, is subsequent to the date of the notice of termination or layoff, but prior to the effective date of the termination or layoff.

(D) The date of injury, as specified in Section 5412, is subsequent to the date of the notice of termination or layoff.

In this matter, applicant was involved in automobile accident on July 13, 2022. Applicant reported the accident but apparently misled the employer regarding the details of the accident. In an incident report completed two days after the accident, applicant wrote "none" under the "Name of Injured Person" and checked off that he would like to "postpone or not seek medical treatment at this time." Applicant continued to work his regular hours until the employer allegedly determined that applicant lied about the details of the accident. Applicant was then terminated. Applicant testified at trial that he "had ongoing pain to his tailbone and lower back area. He was asked whether he ever reported having pain to the company. He says he did report something before getting terminated, but they seemed more concerned about the accident itself. [Supervisor] Jaime did not offer to send him to a doctor, and he did not give him a claim form." (Minutes of Hearing and Summary of Evidence of October 20, 2025 trial at p. 5.)

While it is undisputed that applicant brought his claim after notice of termination, he argues that, pursuant to subdivision (A), the employer had notice of injury prior to the termination. The WCJ explained in the Opinion on Decision that they found that the employer did not have the requisite notice of "injury" because, since there was no disability or need for medical treatment by the time of the termination, there was no "injury" pursuant to Labor Code sections 3208.1 or 5401.

We will grant reconsideration on our own motion pursuant to Labor Code section 5900(b), rescind the WCJ's decision, and return this matter to the trial level for further development of the record, analysis and decision, so that the parties and the WCJ may consider *Robbins v. Taylor* (2007) 2007 Cal. Wrk. Comp. P.D. LEXIS 32 (Appeals Bd. panel), *Navarro v. Allied Waste of Sacramento* (2012) 2012 Cal. Wrk. Comp. P.D. LEXIS 202 (Appeals Bd. panel), *Oseguera v. State Bros. Markets* (2022) 2022 Cal. Wrk. Comp. P.D. LEXIS 111 (Appeals Bd. panel) and any other

relevant precedent. The parties and the WCJ should also consider development of the evidentiary record with regard to specifics regarding the applicant reporting any pain or any other symptoms prior to notice of termination. We express no opinion on the ultimate determination of this or any other outstanding issue in this matter.

The WCAB has a duty to further develop the record when there is a complete absence of (*Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 Cal.App.4th 389, 393-395 [62 Cal.Comp.Cases 924]) or even insufficient (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261]) evidence on an issue. The WCAB has a constitutional mandate to ensure "substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) In accordance with that mandate, we grant reconsideration on our own motion pursuant to Labor Code section 5900(b) and rescind the WCJ's decision so that these matters can be reanalyzed and decided on a more complete record. The parties and the WCJ may also reanalyze any other outstanding issue. We express no opinion on the ultimate resolution of any issue in this matter.

For the foregoing reasons,

IT IS ORDERED that reconsideration is **GRANTED** on our own motion pursuant to Labor Code section 5900(b).

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Orders of December 15, 2025 is **RESCINDED** and that this matter is **RETURNED** to the trial level for further proceedings and decision consistent with the opinion herein.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

February 13, 2026

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**ALBERTO BARRIOS
THE RAMIREZ LAW FIRM
DIETZ, GILMOR & CHAZAN**

DW/oo

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. o.o