

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2004 CA 0858

EUGENE MESEROLE, JR.

VERSUS

HONAKER FUNERAL HOMES & CEMETERIES

Judgment rendered: May 6, 2005

On Appeal from District 6
Office of Workers' Compensation Administration
Docket Number: 03-02112
Honorable Elizabeth A. Warren, Judge Presiding

Michael W. Whitehead
Covington, LA

Counsel for Plaintiff
Eugene Meserole, Jr.

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Covington, LA

Counsel for Defendant
Honaker Funeral Homes &
Cemeteries

BEFORE: WHIPPLE, DOWNING AND HUGHES, JJ.

DOWNING, J.

Eugene Meserole filed a disputed claim form alleging that while he was working for Honaker Funeral Homes & Cemeteries (Honaker), a casket fell and injured his back. The Workers' Compensation Court (WCC) dismissed his claim with prejudice, ruling that he failed to prove an accident-related injury. Mr. Meserole appealed. For the following reasons, we affirm the WCC decision.

The WCC's finding that Meserole failed to prove an accident-related injury is not manifestly erroneous. The record reflects that Mr. Meserole claimed that the accident occurred on October 15, 2002, but he continued working until December. The WCC stated, "[l]ooking at the evidence as a whole, . . . it [was] more likely that Mr. Meserole is not currently working because of his numerous pre-existing conditions than from anything that happened at Honaker, especially since he continued working until December 2002." As the WCC noted, and as the record confirms, Mr. Meserole sought medical treatment one hundred thirty-two times during his seven years of employment with Honaker. Most of these treatments were totally unrelated to his alleged back injury. Mr. Meserole was treated for numerous maladies including hepatitis, chronic sinus and gastro-intestinal conditions, and a knee injury. He had oral surgery.

The WCC found the testimony of a co-worker, Kenny Kelly, to be conflicting and confusing and did little to corroborate Mr. Meserole's version of events. Honaker's office manager testified that no accident report was filled out until nearly two months after the alleged incident, when Mr. Meserole produced a doctor's report saying he could not return to work. The most irrefutable evidence, however, is recorded in Dr. Matthew Horsefield's medical records. This document reveals that on August 5,

2002, over two months before the alleged accident at Honaker's, Mr. Meserole reported that his shoulder, head and right elbow had been injured when a casket fell on him. Dr. Horsefield's report also noted that the patient did not want the claim to be filed under his workers' compensation.

After a thorough review of the record and relevant jurisprudence, we conclude that the WCC did not err in dismissing this case. Therefore, we affirm the WCC judgment in accordance with Uniform Court of Appeal Rule 2-16.2A(2), (6) and (8). All costs associated with this appeal are assessed against plaintiff/appellant, Eugene Meserole.

AFFIRMED.