

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2006 CA 1253

AUNDRA GROSS

VERSUS

CORPORATE PERSONNEL SERVICE TEMPS

Judgment rendered: May 4, 2007

On Appeal from District 6

Office of Workers' Compensation Administration

Docket No. 04-08661

The Honorable Robert Varnado, Judge Presiding

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BEFORE: PETTIGREW, DOWNING AND HUGHES, JJ.

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DOWNING, J.

Claimant/Appellant, Aundra Gross, seeks review of a judgment rendered by the Office of Workers' Compensation (OWC) decreeing he violated the provisions of La.R.S. 23:1208 and as such forfeited his right to continued medical and indemnity benefits. We affirm the OWC judgment.

Louisiana Revised Statute 23:1208 provides in pertinent part:

- A. It shall be unlawful for any person, for the purpose of obtaining or defeating any benefit or payment under the provisions of this Chapter, either for himself or for any other person, to willfully make a false statement or representation.

- (4) Notwithstanding any provision of law to the contrary which defines "benefits claimed or payments obtained", for purposes of Subsection C of this Section, the definition of "benefits claimed or payments obtained" shall include the cost or value of indemnity benefits, and the cost or value of health care, medical case management, vocational rehabilitation, transportation expense, and the reasonable costs of investigation and litigation.

- E. Any employee violating this Section shall, upon determination by hearing officer, forfeit any right to compensation benefits under this Chapter.

We recognize that statutory forfeiture of workers' compensation benefits is a harsh remedy and, as such, must be strictly construed. *Leonard v. James Industrial Constructors*, 03-0040, p. 9 (La.App. 1 Cir. 5/14/04), 879 So.2d 724, 730. Here, Mr. Gross denied in deposition of ever having had treatment for prior back or neck problems. His medical records, however, contradict his denial. The hospital records from two different facilities show that he was treated in 1997 and again in 2002 for similar ailments.

After a thorough review of the record, exhibits and jurisprudence, we conclude that the OWC was not manifestly erroneous in finding that Gross willfully misrepresented his prior back injuries, thereby triggering the forfeiture statute.

As the issue involves no more than an application of well-settled rules to a recurring fact situation, we affirm the judgment by summary disposition in accordance with Uniform Rules - Courts of Appeal, Rule 2-16.2(2), (4), (8).

All costs of this appeal are assessed against Claimant/Appellant, Aundra Gross.

AFFIRMED