



CASE NO. SJO 193411

vs.

WORKERS' COMPENSATION JUDGE

DENNIS P. CAESARE

OPINION ON DECISION

The single issue for determination in this case is whether or not applicant, with respect to providing services for employer, did so in the status of an employee or an independent contractor.


Labor Code §3357 establishes the presumption that a person rendering service for another is an employee. Labor Code §5705(a) assigns the burden of proof, to affirmatively establish that an injured person was not an employee, but rather an independent contractor, on the defendant employer.

The testimonial content and demeanor of multiple witnesses in this case, including those on behalf of the ostensible employer and applicant, was carefully noted and evaluated. Testimony by the ostensible company owner was deemed vague and non-informative about the operation.

It is also recognized, in consideration of the totality of testimonial evidence, that applicant, , might well have been a difficult person to deal with from the standpoint of providing services, whether in the capacity of an employee or independent contractor, to the taxicab company.

In any event, upon review and consideration of the testimonial and documentary evidence in this case, together with review of the extensive written briefs, it is deemed that the ostensible employer has met the burden of Labor Code §5705(a) to establish that applicant was an independent contractor as opposed to an employee.

Accordingly, it shall be found that as of applicant's spinal injury date of 4/25/96, his then status was as an independent contractor.

  
Dennis P. Caesare, Judge

DPC:vnc