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**IN THE
COURT OF APPEALS OF INDIANA**

ANDRES VEGA,

Appellant-Claimant,

vs.

GALFAB, INC.,

Appellee-Respondent.

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No. 93A02-0701-EX-89

APPEAL FROM THE INDIANA WORKER'S COMPENSATION BOARD
Cause No. C-157971

September 20, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-claimant Andrew Vega appeals the denial of his claim for worker's

compensation, essentially arguing that the evidence is insufficient to support the denial. Finding no error, we affirm the judgment of the Full Worker's Compensation Board (the Board).

FACTS

During all relevant points in time, Vega was employed by appellee-respondent Galfab, Inc. (Galfab). On January 12, 2000, Vega suffered a work-related injury to his lower back and was paid temporary total disability for this injury between January 28 and February 4, 2000. On April 17, 2000, Vega woke up in the morning with additional pain in his right shoulder and neck and concluded that he had suffered another injury. Galfab paid Vega temporary total disability from April 18 through October 13, 2000. Vega did not return to work for Galfab following the April 17 injury and now insists that he is permanently disabled as a result of the January 12 and April 17 injuries.

Vega has a history of lower back and neck problems. In the early 1990s, he suffered a work-related lower back injury in California, after which he missed over one month of work. He has received chiropractic care since 1996, at times receiving fourteen to fifteen treatments per year. Additionally, Vega has received treatment from his family physician for lower back pain prior to April 17, 2000.

Following the April 17 injury, Galfab sent Vega to see two physicians. When Vega saw Dr. Jonathan Javors, he neglected to inform Dr. Javors of his preexisting back and neck pain and injuries. After Dr. Javors was later informed of the preexisting problems, he concluded that Vega's lower back and neck pain were preexisting and not related to the

January 12 or April 17 injuries. When Vega saw Dr. Aashish Deshpande, he again neglected to inform the doctor of his preexisting problems. After Dr. Deshpande reviewed Vega's medical history, the doctor found no impairment to Vega's lower back resulting from the Galfab injuries because of the significant preexisting condition.

On June 25, 2001, Vega filed an application for an adjustment of claim, and a Single Hearing Member heard Vega's claim on March 21, 2006. The Single Hearing Member denied Vega's claim on May 31, 2006. Vega appealed to the Board on June 7, 2006, and following a hearing, the Board denied Vega's claim on December 29, 2006, finding in relevant part as follows:

2. That Plaintiff failed to report to the treating physicians that he suffered from significant pre-existing back problems. . . .

15. That the Board finds that the history given by the Plaintiff to his doctors regarding the nature and extent of his injuries is not reliable. Dr. Deshpande, Dr. Ballard, Dr. Gold, and Dr. Keucher all noted the Plaintiff exhibits symptom magnification. . . .
16. That the Board finds that the Plaintiff's complaints of injury are inconsistent. . . .
17. That the Board finds that no further benefits are due on the back injury. . . .
18. That there is no credible evidence that the Plaintiff is permanently and totally disabled from performing any reasonable employment as [a] result of the injuries of January 12, 2000 and April 17, 2000.
19. . . . After a review of all of the medical records, the Board finds that there is no credible evidence that the Plaintiff's ongoing medical treatments and complaints are related to the accidental injury of April 17, 2000, . . . and that no additional medical benefits are due to the Plaintiff.

20. That the Board[] finds that the Plaintiff is not entitled to any additional temporary total disability benefits beyond those that were previously paid by the Defendant.

Appellant's App. p. 3-7. Vega now appeals.

DISCUSSION AND DECISION

As we consider Vega's argument that the Board improperly denied his claim, we observe that we are bound by the Board's findings of fact and may not disturb its determination unless the evidence is undisputed and leads undeniably to a contrary conclusion. Mueller v. DaimlerChrysler Motors Corp., 842 N.E.2d 845, 848 (Ind. Ct. App. 2006). It is the duty of the Board, as the trier of fact, to make findings that reveal its analysis of the evidence and that are specific enough to permit intelligent review of its decision. Id.

In evaluating the Board's decision, we employ a two-tiered standard of review. First, we review the record to determine if there is any competent evidence of probative value to support the Board's findings. We then examine the findings to see if they are sufficient to support the decision. Shultz Timber v. Morrison, 751 N.E.2d 834, 836 (Ind. Ct. App. 2001). We will not reweigh the evidence or assess witness credibility, and we will consider only the evidence most favorable to the award, including any and all reasonable inferences flowing therefrom. Id.

Here, there is evidence establishing that Vega had a significant preexisting condition in his cervical spine for which he had received medical and chiropractic treatment dating back to 1996. Appellant's App. p. 210-13. Vega neglected to tell a number of treating physicians about his preexisting problems; indeed, he even explicitly denied having preexisting pain and injuries to one physician. Id. at 222, 233, 310, 369, 372. Four of his

treating physicians concluded that Vega exhibited symptom magnification. Id. at 228, 348, 367, 394. There was conflicting evidence introduced regarding the issue of permanent and total disability, and it was for the Board to weigh that evidence.

Vega's attempt to direct our attention to evidence supporting his claim is merely a request that we reweigh the evidence and judge witness credibility—a practice in which we do not engage when reviewing a decision of the Board. Essentially, the Board concluded that Vega failed to present any credible evidence in support of his claim, as it was entitled to do given the evidence establishing his changing version of events and attempts to hide his medical history. We find that the record supports the Board's denial of Vega's claim.

The judgment of the Board is affirmed.

BAILEY, J., and VAIDIK, J., concur.