

In the Matter of the Compensation of  
**ANDRES DELGADO-GARCIA, Claimant**

WCB Case No. 05-04067

ORDER ON REVIEW

Vick & Conroyd, Claimant Attorneys

Thaddeus J Hettle & Assoc, Defense Attorneys

Charles Z Edelson, SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Kasubhai and Lowell.

Claimant requests review of Administrative Law Judge (ALJ) Spangler's order that upheld the SAIF Corporation's denial of claimant's injury claim. On review, the issue is subjectivity.

We adopt and affirm the ALJ's order,<sup>1</sup> with the following supplementation.

Claimant argues that he was a subject worker when he was injured, because Mr. Ortiz hired him and Mr. Ortiz had apparent authority to do that. We disagree, in part because we accept the ALJ's finding that the employer credibly testified that he did not give Mr. Ortiz such authority. In addition, we find insufficient evidence of conduct *by the employer* that could be reasonably interpreted to cause claimant to believe that Mr. Ortiz was authorized to hire him. *See Jones v. Nunley*, 274 Or 591, 595 (1976) ("Apparent authority to do any particular act can be created only by some *conduct of the principal* which, when reasonably interpreted, causes a third party to believe that the principal consents to have the apparent agent act for him on that matter.") (Emphasis added).

For these reasons, as well as those set out by the ALJ, we conclude that claimant was not a subject worker when he was injured.

ORDER

The ALJ's order dated July 27, 2005 is affirmed.

Entered at Salem, Oregon on December 5, 2005

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<sup>1</sup> We do not adopt the last sentence in the first paragraph of the "Findings of Fact."