

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

JAQUELINE GARCIA, *Applicant*

vs.

**AMAZON.COM, INC;
LIBERTY MUTUAL INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ18961005
San Bernardino District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted applicant's Petition for Reconsideration of the "Findings of Fact" (Findings) issued on June 25, 2025, by the workers' compensation administrative law judge (WCJ), in order to further study the factual and legal issues. This is our Opinion and Decision After Reconsideration.

The WCJ found, in pertinent part, that pursuant to Business and Professions Code section 7451, applicant was an independent contractor working for Amazon Flex and not an employee of Amazon.Com, Inc., when she was injured while delivering packages.

Applicant contends that the WCJ improperly relied upon testimony of defendant's witnesses because the witnesses lacked personal knowledge. Applicant further argues that the independent contractor agreement should not have been admitted into evidence because it was not authenticated. Applicant further argues that any presumption of independent contractor status contained in Business and Professions Code section 7451 may be rebutted using the test of employment codified under Labor Code section 2750.3.

We have received an answer from defendant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

On December 23, 2025, we granted applicant's Petition for Reconsideration and ordered preparation of the trial transcripts, which we have received and reviewed.

We have considered the allegations of the Petition for Reconsideration and the Answer, and the contents of the WCJ's Report. Based on our review of the record and for the reasons discussed below, as our Decision After Reconsideration, we will rescind the June 25, 2025 Findings of Fact and substitute a new Findings of Fact which finds that defendant did not meet its burden that Business and Professions Code section 7451 et seq. applies to applicant and defers all other issues.

FACTS

Applicant claims to have sustained injury on February 14, 2024, to multiple body parts while working as a delivery driver for Amazon.com Services, LLC. (Transcript of Hearing, January 30, 2025, p. 3, lines 17-23.)

Multiple issues were listed for trial, however the sole issue decided by the trial judge was employment with all other issues deferred. (*Id.* at p. 4, line 25, through p. 5, line 25.) The issue of employment was framed as to whether applicant was "an employee versus an independent contractor per Prop [22] and the Business and Professions Code Section 7448 through 7467." (*Id.* at p. 5, lines 1-3.)

Applicant testified that she began working for Amazon in mid-2021. (*Id.* at p. 12, line 9.) Applicant was a delivery driver. (*Id.* at p. 13, line 6.) Applicant would report to work where she was assigned a daily route. (*Id.* at p. 13, lines 9-11.) The warehouse was owned by Amazon. (*Id.* at p. 14, line 11.) The packages were in Amazon Prime boxes with labels affixed to them. (*Id.* at p. 14, lines 18-20.) Applicant was provided with a removable sign to place on her car. (*Id.* at p. 15, lines 6-11.) Applicant was also provided with a uniform and an ID to wear while delivering packages. (*Id.* at p. 15, lines 14-15; Transcript of Hearing, March 11, 2025, p. 4, lines 16-24.)

Amazon assigned applicant approximately 40 to 50 packages to deliver on her route. (Transcript of Hearing, January 30, 2025, p. 15, lines 22-25.) Applicant understood that the packages were supposed to be delivered in order. (*Ibid.*) Applicant was given a set amount of time to deliver the packages or she would be penalized. (*Id.* at p. 16, lines 13-18.) Applicant could work a maximum of five hours per block. (*Id.* at p. 16, lines 17-19.)

On the day of her injury, applicant was delivering a package when she tripped and fell on an uneven or broken sidewalk. (*Id.* at p. 18, lines 12-15.) Applicant fell onto some rocks. (*Ibid.*) Applicant immediately reported the injury to Amazon. (*Id.* at p. 19, lines 6-9.)

Applicant filled out an application to become an Amazon driver. (*Id.* at p. 25, lines 22-25.) Amazon conducted a background check and approved the application that same night. (*Ibid.*) There is a training process where they review classes on video. (*Id.* at p. 26, lines 8-12.)

Amazon would send applicant available schedule blocks and applicant would pick blocks that would align with her schedule. (*Id.* at p. 29, lines 6-18.) She understood that she could reach a higher level tier after receiving good reviews and doing a good job. (*Id.* at p. 30, lines 21-23.) Higher level workers can get “reserved offers,” which consists of more coveted time frames to make deliveries. (*Id.* at p. 30, lines 15-18.)

She understood that if she did not accept offered blocks, Amazon would reduce the amount of time offered. (*Id.* at p. 32, lines 17-19.)

Applicant was not restricted from working with other companies. (Transcript of Hearing, March 11, 2025, p. 14, lines 15-17.)

Applicant loaded her own car with the packages she was to deliver. (*Id.* at p. 22, lines 12-14.) The people at the warehouse would supervise and assist applicant. (*Id.* at p. 24, lines 2-16.)

Defendant’s representative testified that Amazon Flex is an app-based platform for drivers to deliver packages for Amazon. (*Id.* at p. 29, line 22, through p. 30, line 1.) When a person signs up to be a driver for Amazon Flex, they go through an onboarding process. (*Id.* at p. 30, lines 7-15.) This includes agreeing to the terms of service. (*Ibid.*)

There is no tracking mechanism for whether someone has read and fully understood the terms of service. (*Id.* at p. 31, lines 19-22.) However, the applicant to be a driver must acknowledge the terms of service to complete onboarding. (*Ibid.*)

Defendant offered Exhibit C into evidence, which is the most recent version of the terms of service. Per the terms of service, applicants are assigned delivery blocks, which is defined as follows:

A “Delivery Block” is the **block of time**, scheduled to begin and end as specified in the Amazon Flex app, for delivering the parcels, packages, totes, bags or other deliverables tendered to you by Amazon or its designees, or otherwise made available to you for pick-up (“Deliverables”).

(Exhibit C, p. 1.)

Multiple versions of the terms of service have been made. (Transcript of Hearing, March 11, 2025, p. 45, lines 12-16.) Defendant’s Exhibit C is undated. However, defendant’s witness testified that the terms of service were effective March 31, 2021. (*Id.* at p. 64, lines 8-9.)

The onboarding videos are not training materials and are not required to be reviewed by a driver applicant. (*Id.* at p. 33, lines 9-13.) The videos instruct the driver on what to do and what to expect when using the Amazon Flex app. (*Id.* at p. 55, lines 1-12.)

When an applicant wishes to schedule a block of time, they open up the Amazon Flex app and are provided with a list of opportunities in their area. (*Id.* at p. 37, lines 1-9.) They are provided with a time at which they must be available to pick up the packages and the fee that they will earn. (*Ibid.*)

A driver can schedule multiple blocks but cannot schedule blocks of time that overlap. (*Id.* at p. 37, lines 23-25.) There is no requirement to meet a minimum number of hours. (*Id.* at p. 38, lines 9-11.)

Defendant's witness testified that drivers are not required to wear a uniform, but that Amazon provides vests that are available for them to wear voluntarily. (*Id.* at p. 39, lines 14-21.)

Drivers can cancel a block up to 45 minutes prior to the start time of the block. (*Id.* at p. 43, lines 1-2.)

Drivers are expected to deliver all packages within the block of time allotted. (*Id.* at p. 43, lines 12-16.) Drivers who fail to deliver packages on time may be removed from the app. (*Id.* at p. 56, line 22, though p. 7, line 3.)

DISCUSSION

At trial, defendant raised the sole issue of whether applicant is an independent contractor pursuant to Business and Professions Code section 7451 et seq.

According to the language of Business and Professions Code section 7451, when a company establishes that the services rendered fall within section 7451, a worker is deemed an independent contractor, *notwithstanding any contrary provision of the Labor Code*. However, to be clear, in this decision, we do not consider the application of this language in section 7451 in the global context of the mandate in the Constitution and the statutory framework in the Labor Code regarding employment and workplace injuries.

Instead, we consider *only* the specific issue raised by defendant at trial, which is whether the provisions of Business and Professions Code section 7451 et seq. apply to this applicant's work at Amazon. Since we find that it does not apply, we need not address the larger issue of the application of Business and Professions Code section 7451 et seq. with respect to the Constitution and the Labor Code.

As the party asserting the issue, defendant has the burden of proof. (Lab. Code, § 5705; see also Evid. Code, § 500.) Defendant's burden is by a preponderance of the evidence. (Lab. Code, § 3202.5; *Weiner v. Fleischman* (1991) 54 Cal.3d 476, 483.)

Pursuant to Business and Professions Code section 7451:

Notwithstanding any other provision of law, including, but not limited to, the Labor Code, the Unemployment Insurance Code, and any orders, regulations, or opinions of the Department of Industrial Relations or any board, division, or commission within the Department of Industrial Relations, an app-based driver is an independent contractor and not an employee or agent with respect to the app-based driver's relationship with a network company if the following conditions are met:

(a) The network company does not unilaterally prescribe specific dates, times of day, or a minimum number of hours during which the app-based driver must be logged into the network company's online-enabled application or platform.

(b) The network company does not require the app-based driver to accept any specific rideshare service or delivery service request as a condition of maintaining access to the network company's online-enabled application or platform.

(c) The network company does not restrict the app-based driver from performing rideshare services or delivery services through other network companies except during engaged time.

(d) The network company does not restrict the app-based driver from working in any other lawful occupation or business.

(Bus. & Prof., § 7451.)

Therefore, a company must establish every element required of Business and Professions Code section 7451 et seq., including that it meets the definition of a 'network company' and that the worker meets the definition of an 'app-based driver' under the statute. Here, defendant failed its burden to establish the application of Business and Professions Code section 7451.

By the plain language of Business and Professions Code section 7451, it only applies where a worker meets the definition of an "app-based driver." Business and Professions Code section 7463 provides definitions for each term used within section 7451 and defines "app-based driver" as follows: "(a) 'App-based driver' means an individual who is a DNC courier, TNC driver, or TCP driver or permit holder; and for whom the conditions set forth in subdivisions (a) to (d), inclusive, of Section 7451 are satisfied." (Bus. & Prof., § 7463(a).) The terms "TNC driver" and "TCP driver" refer to passenger services, which do not appear germane to this case. Instead, it

appears that Amazon is alleging that applicant is a “DNC courier.” The provisions for DNC couriers are further defined in Business and Professions Code section 7463, in pertinent part, as follows:

(f) “Delivery network company” (DNC) means a business entity that maintains an online-enabled application or platform used to facilitate delivery services within the State of California on an on-demand basis, and *maintains a record of the amount of engaged time and engaged miles* accumulated by DNC couriers. *Deliveries are facilitated on an on-demand basis if DNC couriers are provided with the option to accept or decline each delivery request* and the DNC does not require the DNC courier to accept any specific delivery request as a condition of maintaining access to the DNC’s online-enabled application or platform.

(g) “Delivery network company courier” (DNC courier) means an individual who provides delivery services through a DNC’s online-enabled application or platform.

(h) “Delivery services” means the fulfillment of delivery requests, meaning the pickup from any location of any item or items and the delivery of the items using a passenger vehicle, bicycle, scooter, walking, public transportation, or other similar means of transportation, to a location selected by the customer located within 50 miles of the pickup location. *A delivery request may include more than one, but not more than 12, distinct orders placed by different customers.* Delivery services may include the selection, collection, or purchase of items by a DNC courier provided that those tasks are done in connection with a delivery that the DNC courier has agreed to deliver.

(Bus. & Prof., § 7463(f), (g), (h), (emphasis added).)

First, and pursuant to Amazon’s own terms of service, applicant was not permitted to accept or decline each delivery request. Instead, Amazon’s app was based on assigned blocks of time, during which applicant was expected to deliver dozens of individual packages. Next, even if we interpreted Amazon’s time blocks as ‘delivery requests,’ the unrebutted evidence is that applicant would be scheduled for 40 to 50 deliveries in a single block. To qualify under the Business and Professions Code a delivery request may not include more than 12 distinct orders.

Next, there is no evidence that Amazon maintained records of engaged time and engaged miles. On the contrary, defendant’s own representative testified that there was no tracking of delivery partners when they are on their routes. (Transcript of Record, March 11, 2025, p. 43, lines 19-20.)

Based on the record before us, Amazon has not established that it constitutes a “delivery network company” or that applicant constituted an “app-based driver” pursuant to Business and

Professions Code section 7451. Thus, by virtue of the statutory language, it is not entitled to the claimed presumption that applicant is an independent contractor.

Accordingly, as our Decision After Reconsideration, we rescind the June 25, 2025 Findings of Fact and substitute a new Findings of Fact which finds that defendant did not meet its burden that Business and Professions Code section 7451 et seq. applies to applicant and defers all other issues.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings of Fact issued on June 25, 2025, is **RESCINDED** with the following **SUBSTITUTED** in its place:

FINDINGS OF FACT

1. Applicant, Jaqueline Garcia, who was 43 years old on the alleged date of injury, while employed on February 14, 2024, as a delivery driver, occupational group number deferred, in Anaheim, California, by Amazon.com Services, LLC, claims to have sustained injury arising out of and in the course of employment to her head, trunk, hips, psyche, brain, sleep, face, teeth, headaches, right leg, lumbar spine, right knee, and multiple additional body parts, which are deferred.
2. Defendant failed to prove that it constituted a 'network company' and that applicant constituted an 'app-based driver' as those terms are defined in Business and Professions Code section 7451 et seq.
3. All other issues are deferred.

IT IS FURTHER ORDERED that this matter is **RETURNED** to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 17, 2026

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**JAQUELINE GARCIA
HINDEN BRESLAVSKY
INNOVATIVE MEDICAL MANAGEMENT
MEDICAL LIEN MANAGEMENT, INC.
LELIAN MAXIMOUS
EMPLOYER DEFENSE**

EDL/mt

I certify that I affixed the official seal of
the Workers' Compensation Appeals Board
to this original decision on this date.
KL