

FINAL AWARD DENYING COMPENSATION
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 01-169464

Employee: Joyce Battle
Employer: Barnes Jewish Hospital
Insurer: Self-Insured
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund
Date of Accident: Alleged December 27, 2001
Place and County of Accident: Alleged St. Louis

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by section 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated February 2, 2006, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Matthew D. Vacca, issued February 2, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 25th day of July 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

NOT SITTING
William F. Ringer, Chairman

Alice A. Bartlett, Member

Attest: _____
John J. Hickey, Member

Secretary

AWARD

Employee: Joyce Battle Injury No.: 01-169464

Dependents: N/A Before the
Division of Workers'
Employer: Barnes Jewish Hospital **Compensation**
Department of Labor and Industrial
Additional Party: Second Injury Fund Relations of Missouri
Jefferson City, Missouri
Insurer: Self-Insured
Hearing Date: January 11, 2006 Checked by: MDV:tr

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? No
2. Was the injury or occupational disease compensable under Chapter 287? No
3. Was there an accident or incident of occupational disease under the Law? No
4. Date of accident or onset of occupational disease: December 27, 2001
5. State location where accident occurred or occupational disease was contracted: St. Louis
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? No
8. Did accident or occupational disease arise out of and in the course of the employment? No
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted:
Working as nurse.
12. Did accident or occupational disease cause death? No Date of death? N/A
13. Part(s) of body injured by accident or occupational disease: None
14. Nature and extent of any permanent disability: None
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? -0-

Employee: Joyce Battle Injury No.: 01-169464

17. Value necessary medical aid not furnished by employer/insurer? -0-
18. Employee's average weekly wages: \$1,250.19
19. Weekly compensation rate: \$628.90/\$329.42
20. Method wages computation: Agreed

COMPENSATION PAYABLE

21. Amount of compensation payable: None
22. Second Injury Fund liability: No

TOTAL: -0-

23. Future requirements awarded: None

Said payments to begin N/A and to be payable and be subject to modification and review as provided by law.

The compensation awarded to the claimant shall be subject to a lien in the amount of N/A of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

N/A

FINDINGS OF FACT and RULINGS OF LAW:

Employee:	Joyce Battle	Injury No.: 01-169464
Dependents:	N/A	Before the
Employer:	Barnes Jewish Hospital	Division of Workers'
Additional Party:	Second Injury Fund	Compensation
Insurer:	Self-Insured	Department of Labor and Industrial
		Relations of Missouri
		Jefferson City, Missouri
		Checked by: MDV:tr

ISSUES PRESENTED

The issues presented for resolution by way of this hearing are accident, occupational disease, notice, statute of limitations, medical causation, entitlement to medical benefits, temporary total and permanent disability benefits, and the liability of the Second Injury Fund.

SYNOPSIS

Claimant is an extremely pleasant person who appeared pro-se and conducted a difficult hearing while tending to her two young grandchildren. Claimant was a registered nurse for Barnes Jewish Hospital. She filed a claim that alleges she was exposed to a patient who had pneumonia and that she thereby contracted pneumonia. Unfortunately, there is no testimony from a physician that the pneumonia was caused by the work. Claimant also has another separate claim pending for work-related tuberculosis. That claim is not before me.

FINDINGS OF FACT

1. On December 27, 2001, Claimant was an employee of Barnes Jewish Hospital making an average weekly wage in excess of \$1,250.19 per week, sufficient to entitle her to the maximum compensation rates for the time period of \$628.90 for temporary total and permanent partial disability benefits and \$329.42 for permanent partial disability.
2. On December 27, 2001, Claimant was working for Barnes Jewish Hospital as a registered nurse. Claimant filed a Claim for Compensation on December 15, 2003, alleging that she was exposed to a patient with pneumonia on December 27, 2001, and thereby contracted pneumonia and was permanently injured as a result thereof.
3. Claimant began working for Barnes in July 2000 full time. Prior to that she was a home health care nurse.

Employee: Joyce Battle Injury No.: 01-169464

4. After July 2000, Claimant experienced lots of stress. She lost her father right about the time she went to work full time at Barnes. In the same year she lost several aunts and uncles and her daughter's grandmother died. She believes this made her susceptible to contracting pneumonia.

RULINGS OF LAW

1. Proper objections were made to Exhibits A through R. The objections are sustained. Exhibits A through R are not admissible into evidence.
2. Assuming, for the sake of argument that Exhibits A through R are admissible, the most that they establish is that Claimant had clear lungs prior to working at Barnes and had pneumonia during the time period she worked as a registered nurse at Barnes Jewish Hospital.
3. The purported evidence, however, fails to establish any medical causal connection between the condition of pneumonia and Claimant's employment at Barnes Jewish Hospital. There is also no evidence of disability from a physician. The exhibits could show a disease, but not the cause of the disease.

DISCUSSION

The issue of whether Claimant's pneumonia arose out of and in the course of employment or is medically causally related to employment is an issue upon which medical testimony is necessary. Claimant has the burden of proving all essential elements of a claim, including causation. *Grime v. Altech Industries*, 83 S.W.3d 581, 583 (Mo.App. 2002). There must be expert medical testimony that the pneumonia was directly connected to the employment, without which a finding for Claimant would be mere conjecture. *Id.* In this case, Claimant may have proven she had pneumonia while working at Barnes, but there is no expert testimony linking that pneumonia to her work. No medical testimony was presented making the requisite connection and therefore the claim must be denied. The remaining issues are moot.

Date: _____ Made by: _____
Matthew D. Vacca
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Patricia "Pat" Secrest
Director
Division of Workers' Compensation