

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

Injury No.: 03-141384

Employee: Timothy Bauer
Employer: Miller County Ambulance Service
Insurer: None
Date of Accident: Alleged November 9, 2003
Place and County of Accident: Alleged Miller County

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations 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 Chief Administrative Law Judge Hannelore D. Fischer, issued February 2, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 23rd day of August 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Timothy Bauer

Injury No. 03-141384

Dependents:
Employer: Miller County Ambulance District
Additional Party:
Insurer: None.
Hearing Date: January 20, 2006

Before the
**DIVISION OF WORKERS'
COMPENSATION**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri
Checked by: HDF/cs

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? No. Claimant failed to prove work-related accident.
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: alleged – November 9, 2003.
5. State location where accident occurred or occupational disease was contracted:
6. Was above employee in employ of above employer at time of alleged accident or occupational disease?
Yes.
7. Did employer receive proper notice? N/a.
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? No.
11. Describe work employee was doing and how accident occurred or occupational disease contracted: (Please see award.)
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: Psychological/post-traumatic stress
14. Nature and extent of any permanent disability:
15. Compensation paid to-date for temporary disability:
16. Value necessary medical aid paid to date by employer/insurer?
17. Value necessary medical aid not furnished by employer/insurer?
18. Employee's average weekly wages:
19. Weekly compensation rate: \$416.69.
20. Method wages computation: By agreement.

COMPENSATION PAYABLE

21. Amount of compensation payable: None.
22. Second Injury Fund liability: N/a.

TOTAL:

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Timothy Bauer

Injury No: 03-141384

Before the
**DIVISION OF WORKERS'
COMPENSATION**

Department of Labor and Industrial Relations of Missouri
Jefferson City, Missouri

Dependents:

Employer: Miller County Ambulance District

Additional Party

Insurer: None.

Checked by: HDF/cs

The above-referenced workers' compensation claim was heard before the undersigned administrative law judge on January 20, 2006. Memoranda were due by January 27, 2006.

The parties stipulated that on or about the 19th day of November, 2003, the claimant was in the employment of Miller County Ambulance District; a claim for compensation was filed within the time prescribed by law; the rate of compensation on the date of accident was \$416.69 per week; no temporary disability benefits have been paid to the claimant to date; no medical aid has been provided.

The issues to be resolved by hearing include 1) the occurrence of an accident, 2) whether appropriate notice was provided, 3) the causation of the injury alleged, 4) the liability of the employer/insurer for medical treatment, and 5) the liability of the employer/insurer for temporary total

disability benefits.

FINDINGS OF FACT

The claimant, Timothy Bauer, was employed as a paramedic for the Miller County Ambulance District when, on October 9, 2003, he responded to two locations involving fatalities, the first, a motor vehicle accident involving one fatality, the second, a self-inflicted gunshot wound, also resulted in a fatality.

On November 19, 2003, Mr. Bauer was admitted to St. Francis Hospital and Health Services in Maryville, Missouri, after threatening a woman he had been dating and threatening suicide. The discharge summary contains the following history:

The patient was brought in by Maryville Police Department after a call came in suggesting that Mr. Bauer had made a threat to a girl that he is dating, her children and her estranged husband. Then reportedly remarked that he would then kill himself. This gentleman denies homicidal and suicidal thought on admission. He says that a girl that he was going with near Columbia kicked him out of the house at 10:00 at night. He immediately came to the Maryville area to stay with a currently separated woman and her children, that he is "in love with" and when told that she planned on getting back with her husband, he became enraged. He has an ex-wife and three children near St. Louis where his parents live. On admission, there were multiple track marks noted on his right arm. On admission, he told the nurse that he had planned on letting the blood out of his vein and putting in air. He works as an emergency medical technician part time. By the time I talked with him he denied suicidal ideation and said he was just upset over his girlfriend's decision to go back with her husband. He was evaluated on the 11th and at that time reported thoughts of suicide, lots of stress but remarked that he would not harm himself.

The records of St. Francis Hospital and Health Center contain multiple references to Mr. Bauer's "breaking point was when girlfriend went back with ex." Also noted is Mr. Bauer's statement that he had considered suicide for 20 years. There is one reference in the records to "lots of job stress and bad calls. Patient says a 14-year-old died on his shift and that has bothered him a lot."

Dr. Ann Duncan, a licensed psychologist, examined Mr. Bauer and had Mr. Bauer participate in psychological tests. Dr. Duncan found Mr. Bauer to have had a brief psychotic reaction in November of 2003. Dr. Duncan testified that the calls in which Mr. Bauer participated on October 9, 2003, on behalf of the ambulance district could arguably be called instrumental in causing Mr. Bauer's November 19, 2003 psychological problems, but also testified that it was the dissolution of his relationship with a girlfriend that "put him over the edge."

In her written report, dated July 18, 2005, Dr. Duncan referred to a "Brief Psychotic disorder with marked stressors" and referred to the precipitating event as "the deaths on October 9, 2003." Dr. Duncan referred to Mr. Bauer's continued "stress, anxiety, and anger over the denial of his workman's compensation claim."

APPLICABLE LAW

Section 287.020.2 provides as follows:

The word "accident" as used in this chapter shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen identifiable event or series of events happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury. An injury is compensable if it is clearly work-related. An injury is clearly work-related if work was a

substantial factor in the cause of the resulting medical condition or disability. An injury is not compensable merely because work was a triggering or precipitating factor.

AWARD

The claimant, Tim Bauer, has failed to sustain his burden of proof that he sustained an accident at work. While Mr. Bauer described his involvement as a paramedic on October 9, 2003, in two calls resulting in fatalities, Mr. Bauer failed to prove that the events of October 9, 2003, resulted in an injury. While Mr. Bauer was hospitalized over a month after the events of October 9, 2003, the overwhelming evidence is that the hospitalization resulted from Mr. Bauer's threatening and suicidal behavior when he understood that his girlfriend did not wish to continue her relationship with him. Dr. Duncan's testimony regarding the cause of Mr. Bauer's psychological problems was contradictory, pointing to both the termination of the personal relationship and the trauma of two paramedic calls resulting in fatalities over a month prior to the onset of psychological problems. The medical records of the November 19, 2003 hospitalization documenting the termination of the relationship as the cause of the psychological problem are substantially greater than the one secondary reference to trauma at work as the result of a fatality.

All other issues raised for resolution are hereby rendered moot.

Because the finding that this is not a work-related accident, this award is a final award.

Date: February 2, 2006

Made by: /s/Hannelore D. Fischer
HANNELORE D. FISCHER
Chief Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

/s/Patricia "Pat" Secret
Patricia "Pat" Secret, *Director*
Division of Workers' Compensation