

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

Injury No.: 04-019827

Employee: Lloyd Childress  
Employer: Labor Ready Central, Inc.  
Insurer: Self-Insured c/o ESIS  
Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 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 Law. Pursuant to § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated July 17, 2009, except to the extent corrected herein, and awards no compensation in the above-captioned case.

The employee failed to appear at the scheduled hearing in this matter. The administrative law judge stated in her Award that the "[n]otice of this hearing was sent to the last known address of the Claimant by certified mail, Certificate No. 7007302000009394954." The electronic records of the Division of Workers' Compensation (Division) indicate that this certified mail number belongs to the envelope in which the notice of hearing was sent to Michael Kauphusman, insurer's attorney.

The Division mailed notice of the scheduled July 15, 2009, hearing to employee on three separate occasions. On May 15, 2009, notice was sent by regular mail; on May 28, 2009, notice was sent by certified mail number 7007302000009394930; and, on June 18, 2009, notice was sent by certified mail number 7007302000009395296. On July 14, 2009, correspondence from the employee was received at the Division's Kansas City office in which employee acknowledges that he had received three notices of the July 15, 2009, hearing, and that he would not be in attendance. Employee had notice of the July 15, 2009, hearing and chose not to attend.

The award and decision of Administrative Law Judge Paula A. McKeon, issued July 17, 2009, is attached and incorporated by this reference, except as corrected herein.

Given at Jefferson City, State of Missouri, this 26th day of August 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

\_\_\_\_\_  
William F. Ringer, Chairman

\_\_\_\_\_  
Alice A. Bartlett, Member

\_\_\_\_\_  
John J. Hickey, Member

Attest:

---

Secretary

FINAL AWARD

Employee: Lloyd Childress Injury No: 04-019827  
Dependents: N/A  
Employer: Labor Ready Central, Inc.  
Additional Party: Missouri Treasurer as Custodian of the Second Injury Fund  
Insurer: Self-Insured c/o ESIS  
Hearing Date: July 15, 2009 Checked by: PAM/cg

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? Yes
3. Was there an accident or incident of occupational disease under the Law? Yes
4. Date of accident or onset of occupational disease: February 25, 2004
5. State location where accident occurred or occupational disease was contracted: North Kansas City, Clay County, Missouri
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? Yes
9. Was claim for compensation filed within time required by Law? No
10. Was employer insured by above insurers? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted: Claimant alleges that he slipped and fell on a warehouse floor.
12. Did accident or occupational disease cause death? No

13. Part(s) of body injured by accident or occupational disease: Back; body as a whole.
14. Nature and extent of any permanent disability: None
15. Compensation paid to date for temporary disability: None
16. Value necessary medical aid paid to date by employer/insurer? \$3,653.17
17. Value necessary medical aid not furnished by employer/insurer? None
18. Employee's average weekly wages: \$187.50
19. Weekly compensation rate: \$125.00
20. Method wages computation: \$287.250.3
21. Amount of compensation payable:
- Unpaid medical expenses: None
  - 0 weeks of temporary total disability (or temporary partial disability)
  - 0 weeks of permanent partial disability from Employer
  - 0 weeks of disfigurement from Employer
22. Second Injury Fund liability: None
23. Future requirements awarded: None

**FINDINGS OF FACT and RULINGS OF LAW:**

Employee: Lloyd Childress Injury No: 04-019827

Dependents: N/A

Employer: Labor Ready Central, Inc.

Additional Party: Missouri Treasurer as Custodian of the Second Injury Fund

Insurer: Self-Insured c/o ESIS

Hearing Date: July 15, 2009 Checked by: PAM/cg

On July 15, 2009, the parties appeared for a final hearing. Claimant failed to appear at said hearing. Notice of this hearing was sent to the last known address of the Claimant by certified mail, Certificate No. 70073020000009394954. Employer appeared by attorney Michael R. Kauphusman. The Second Injury Fund appeared by attorney Richard Wiles.

ISSUES

The issues to be resolved by this hearing are as follows:

- Whether claim for compensation was filed within time required by law;
- The nature and extent of permanent disabilities.

## **DISCUSSION**

Since the Claimant did not appear, no stipulation as to facts was agreed upon by the parties. A legal file was established consisting of Receipt for Certified Mail No. 7007302000009394954; Claim for Compensation filed by the Claimant May 17, 2007; Answer to Claim for Compensation filed by the Employer June 14, 2007.

Claimant did not appear to present evidence. No representative for the Claimant appeared to present any evidence. No evidence is presented on behalf of the Claimant.

Employer presents the Affidavit of Kimberlee A. Stein documenting the last payment of compensation in regard to claim. Employer also stands on its Answer to Claim for Compensation filed herein and made a part of the legal file.

## FINDINGS OF FACT AND RULINGS OF LAW

Whether Claim for Compensation was filed within time required by law.

No oral or written evidence was adduced on behalf of the Claimant at the hearing. The Claimant has the burden of going forward with the evidence. The Claim for Compensation was filed by the Claimant on May 17, 2007. The last payment of compensation by the Employer was December 23, 2004. I find that this claim is time barred pursuant to R.S. Mo. §287.430 and §287.440.

The nature and extent of any permanent disabilities.

Based on the foregoing findings of fact and rulings of law, Claimant has failed to sustain his burden of proof as to any permanent disability which may have been caused by an alleged accident or occupational disease of February 25, 2004. Therefore, no award of any permanent partial disability benefit is made at this time.

Therefore, I find both issues in favor of the Employer and the Second Injury Fund. It is hereby ordered that Claimant shall receive no benefit prayed for in the Claim for Compensation or as may be set out in Chapter 287, Revised Statutes of Missouri.

Employer and Second Injury Fund are discharged from any liability occasioned by an alleged accident/occupational disease which may have occurred on or about February 25, 2004.

**Date:** \_\_\_\_\_

**Made by:** \_\_\_\_\_

**Paula A. McKeon**  
*Administrative Law Judge*  
*Division of Workers' Compensation*

**A true copy: Attest:**

\_\_\_\_\_

**Naomi Pearson**  
*Division of Workers' Compensation*