

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

Injury No.: 02-033077

Employee: Terry Dyer
Employer: Ford Motor Company
Insurer: Self-Insured
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund
Date of Accident: Alleged April 1, 2002
Place and County of Accident: Alleged St. Louis 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 December 28, 2005, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Cornelius T. Lane, issued December 28, 2005, is attached and incorporated by this reference.

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

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Terry Dyer

Injury No.: 02-033077

Dependents: N/A
Employer: Ford Motor Company
Additional Party: Second Injury Fund
Insurer: Self-Insured
Hearing Date: November 22, 2005

Before the
**Division of Workers'
Compensation**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Checked by: CTL: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: N/A
5. State location where accident occurred or occupational disease was contracted: N/A
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? 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: N/A
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: N/A
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? None

Employee: Terry Dyer Injury No.: 02-033077

17. Value necessary medical aid not furnished by employer/insurer? None
18. Employee's average weekly wages: Maximum
19. Weekly compensation rate: \$628.90/\$329.42
20. Method wages computation: By agreement

COMPENSATION PAYABLE

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

23. Future requirements awarded: N/A

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:	Terry Dyer	Injury No.: 02-033077
Dependents:	N/A	Before the Division of Workers' Compensation
Employer:	Ford Motor Company	Department of Labor and Industrial Relations of Missouri
Additional Party:	Second Injury Fund	Jefferson City, Missouri
Insurer:	Self-Insured	Checked by: CTL:tr

PREFACE

On November 22, 2005, the above claim was tried with Attorney Evan Beatty representing the Claimant, Terry Dyer, and the Employer, Ford Motor Company, being represented by Attorney Richard Fitzgerald.

ISSUES

1. Did the Claimant sustain an occupational disease arising out of and in the course of his employment with the Employer;
2. Nature and extent of permanent partial disability, if any; and
3. Nature and extent of temporary total disability.

EXHIBITS

The Claimant offered the following exhibits:

- Exhibit A. Deposition of Dr. Schlafly.
Exhibit B. Medical Records of Lincoln County Medical Center.
Exhibit C. Medical Records of Dr. Rummel.

The Employer offered the following exhibits:

- Exhibit 1. Deposition of Dr. Richard Howard.
Exhibit 2. Medical Records of Dr. Rummel.

FINDINGS OF FACT

1. The Claimant, Terry Dyer, at the time of the hearing was 59 years of age and testified that he had retired from the Employer, Ford Motor Company, on March 4, 2004.
2. The Claimant became employed with the Employer in 1972 and for the most part of his tenure with the Employer drove a forklift truck. The Claimant testified that the bigger forklift trucks were more difficult to operate and were normally operated outside the plant.
3. The Employer's forklifts had steering wheels and had hydraulic lifts to raise and lower materials.
4. The Claimant testified he had to use quite a force to raise the levers on the forklifts and it was very difficult in gripping the steering wheel and operating the forklift. Other duties included unloading stock and using razor blade knives to cut cardboard boxes.
5. The Claimant testified he worked ten hours a day.
6. Claimant indicated in his testimony that in 1997 and 1998 he had a workers' compensation claim, which had been settled.
7. Claimant testified that after working approximately 28 years doing forklift work that essentially he had become a janitor at Employer in the year 2000 and remained in said position until his retirement.
8. Claimant, in August of 2003, was operated on by Dr. Rummel for right carpal tunnel release and right middle finger trigger release and in October 2003 underwent left carpal tunnel release and left middle finger trigger release. As a result of his surgery he was off work from August 4 through November 24, 2003.
9. Claimant testified that after the operations his strength has not returned to what it was before the surgery and he still has numbness and tingling in his hands. As a result of the operations he can no longer do some work that he normally did on his car or working on a lawnmower. He still has pain if he uses his hands doing any work.
10. Claimant suffers from diabetes and rheumatoid arthritis.
11. Dr. Richard Howard, who testified very credibly on behalf of the Employer, examined the Claimant on April 14, 2005. The doctor conducted a physical examination and reviewed the medical records from Claimant's previous treatments at various locations and noted that the Claimant was diabetic with rheumatoid arthritis, was overweight and had high blood pressure. The doctor was of the opinion that the Claimant's carpal tunnel syndrome was not work related and was secondary to his medical problems of rheumatoid arthritis and diabetes and he expected that if the carpal tunnel syndrome and trigger finger were work related that those symptoms would have developed earlier on in his long career at Ford Motor Company.

RULINGS OF LAW

Based upon the above Findings of Fact, I find that the substantial weight of the evidence establishes:

1. Dr. Howard testified very credibly that the Claimant's risk factors of diabetes and rheumatoid arthritis were the risk factors in the Claimant's development of carpal tunnel syndrome and was not work related.
2. Therefore, Claimant is not entitled to any compensation benefits.

Date: _____

Made by: _____

Cornelius T. Lane
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Patricia "Pat" Secrest
Director
Division of Workers' Compensation