

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

Injury No.: 99-125633

Employee: Paul Gruenert  
Employer: Green Park Nursing Home  
Insurer: Missouri Property & Casualty  
Date of Accident: Alleged April 16, 1999  
Place and County of Accident: St. Louis, Missouri

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 August 29, 2006, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Cornelius T. Lane, issued August 29, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 3<sup>rd</sup> day of May 2007.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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

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

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

Attest:

\_\_\_\_\_  
Secretary

AWARD

Employee: Paul Gruenert  
Dependents: N/A  
Employer: Green Park Nursing Home  
Additional Party: N/A  
Insurer: Missouri Property & Casualty  
Hearing Date: July 12, 2006

Injury No.: 99-125633

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: Alleged April 16, 1999
5. State location where accident occurred or occupational disease was contracted: St. Louis, MO
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 happened or occupational disease contracted:  
Claimant was allegedly injured while assisting to lift a resident off of the floor.
12. Did accident or occupational disease cause death? No Date of death? N/A
13. Parts of body injured by accident or occupational disease: None
14. Nature and extent of any permanent disability: -0-
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? -0-

Employee: Paul Gruenert

Injury No.: 99-125633

- 17. Value necessary medical aid not furnished by employer/insurer? N/A
- 18. Employer's average weekly wages: \$654.00
- 19. Weekly compensation rate: \$436.02/\$294.73
- 20. Method wages computation: Agreed

COMPENSATION PAYABLE

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

TOTAL: -0-

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: Paul Gruenert

Dependents: N/A

Employer: Green Park Nursing Home

Additional Party: N/A

Insurer: Missouri Property & Casualty Insurance

Injury No.: 99-125633

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PRELIMINARIES

A hearing was held on July 12, 2006. The Claimant, Paul Gruenert, was represented by Attorney Michael McGlynn and the Employer/Insurer was represented by Attorney Loretta Simon.

STIPULATIONS

- 1. Claimant was working for the Employer at the time of his alleged accident.
- 2. Claimant’s permanent partial disability rate was \$294.73 and his temporary total disability rate was \$436.02.

ISSUES

The issues to be resolved in this proceeding are:

- 1. Accident;
- 2. Medical causal connection;
- 3. Past and future medical expenses;
- 4. Future medical treatment;
- 5. Temporary total disability; and
- 6. Nature and extent of permanent disability.

EXHIBITS

The Claimant offered the following exhibits:

- Claimant’s Exhibit A: Accident Report
- Claimant’s Exhibit B: Group Medical Records
- Claimant’s Exhibit C: Group Medical Bills
- Claimant’s Exhibit D: Dr. Shekhani’s Deposition
- Claimant’s Exhibit E: Surgeon’s Report Dr. Hertel
- Claimant’s Exhibit F: Surgeon’s Report Dr. Shekhani
- Claimant’s Exhibit G: Surgeon’s Report Dr. Malik
- Claimant’s Exhibit H: Notes as to Employment
- Claimant’s Exhibit I: Tax records group

The Employer offered the following exhibits:

- Employer’s Exhibit 1: Medical Records of St. Louis-Clayton Orthopedic Group, Inc. (Ronald C. Hertel, M.D.)
- Employer’s Exhibit 2: Medical Records of George E. Mendelsohn, M.D.
- Employer’s Exhibit 4: Midwest Specialists (Dr. Gatchalian)-office note of 8/8/00
- Employer’s Exhibit 5: Medical Records of Jennifer Page, M.D. (St. Anthony’s Medical Center)
- Employer’s Exhibit 11: Medical Records of Edwin D. Dunteman, M.D.
- Employer’s Exhibit 12: A.H. Guarino, M.D. - Pain Management Center - 1/25/01 report
- Employer’s Exhibit 13: St. Anthony’s Medical Center - 9/19/01 Admission
- Employer’s Exhibit 14: David Raskas, M.D. Deposition Transcript - 2/14/05

FINDINGS OF FACT

Based upon the substantial and credible evidence, I find:

- 1. The Claimant, Paul Gruenert, at the time of the hearing was 63 years of age, who in 1967 graduated from Rockhurst College in Kansas City, Missouri, with a Bachelor of Arts degree in Psychology and Education

and also received Diploma of Nursing in January 1979 from Barnes Hospital School of Nursing. Claimant, since 1979 through his last day of employment of April 15, 2004, worked as a registered nurse and essentially during the years worked with patients, administered medications, managed IVs and took of care of the personal needs of a patient which included turning, lifting, repositioning and bathing.

2. The Claimant testified he injured his low back while working at the Green Park Nursing Home on April 16, 1999, when he was helping a patient into her bed along with two other co-employees and the patient started to fall backwards. Claimant grabbed her and he felt pain in his low back which radiated down into his right buttock and leg.
3. Claimant reported said incident to his supervisor and filled out a form and gave it to his supervisor at his place of employment. Claimant did not seek any immediate medical treatment as a result of the incident of April 16, 1999.
4. On June 16, 1999, approximately two months after the incident of April 16, 1999, Claimant went to see his own doctor, Dr. Hertel. Claimant told Dr. Hertel that he had an onset of pain in his back approximately four days prior to the office visit and he was at home making his bed and pulling a sheet at which time he felt very intense pain in his low back. Dr. Hertel's records do not show that Claimant indicated that his back pain was a result of the April 16, 1999 incident at work.
5. Dr. Hertel, upon seeing the Claimant, ordered a scan of his back and after having reviewed the MRI, Dr. Hertel referred the Claimant to Dr. Mendelsohn for additional treatment. The Claimant's testimony as well as the medical records are confusing with regard to how he sustained the injury on April 16, 1999 when he was picking up a patient off the floor or taking the patient out of a wheelchair. It is very unclear as to what, if anything, happened on April 16, 1999.
6. Claimant underwent three operations on his back. The first surgery was done by Dr. Mendelsohn on June 24, 1999, and the Claimant continued to see Dr. Mendelsohn and felt that he had a good result until January 12, 2002 at which time he was getting out of a car and noticed a recurrence of back pain.
7. Claimant returned to see Dr. Hertel following the January 12, 2002, incident and an MRI was ordered which showed that there was a recurrence of a herniated disc. Dr. Hertel referred the Claimant to Dr. Dunteman because of the increase pain as a result of the car incident.
8. Claimant, because of his ongoing complaints of low back problems following the car incident, came under the treatment of Dr. Madsen who performed surgery on the Claimant on January 17, 2001, which consisted of lumbar microdiscectomy at the L3-L4 level. After the second surgery on his back, the Claimant continued to have problems with back and leg pain and the Claimant came under the care of Dr. Wetherington who performed a laminectomy at L3 and a decompression of the nerve root laminectomy at L4-L5 with posterior spinal fusion at L3-L4 and L5.
9. Claimant, even after all his three surgeries, continued to work as a nurse which included assisting patients while lifting and turning the patients.
10. Claimant has, during his lifetime, experienced depression as well as chemical dependency and that at the time of the hearing continues to treat with a psychiatrist for depression.
11. Claimant was seen by Dr. Raskas on November 8, 2004, at the request of the Employer. Dr. Raskas is an orthopedic spine surgeon and the doctor took a history from the Claimant as well as reviewed the complete medical file regarding Claimant's treatment.
12. Dr. Raskas, having reviewed all the medical records prior to the April 16, 1999 injury as well as the subsequent medical records, felt that the Claimant had sufficient symptoms at the time to conclude his discs were herniated then.
13. Claimant saw Dr. Hertel in June of 1998 with complaints of pain in the right buttock and hyperactive right

knee reflexes. I believe the evidence shows Claimant had a herniated disc at L3-L4 level at that time and prior to the April 1999 incident.

14. Dr. Raskas testified very credibly that he felt that the Claimant only sustained a back strain at work in the April 1999 incident and that incident did not cause any additional damage, permanent disability or the need for any medical care or permanent restrictions.
15. When Dr. Raskas saw Claimant, the Claimant did indicate that he continued to have low back pain and radiating both the left side as well as the right side of his body and he had difficulty walking, standing, and sitting too long.

#### RULINGS OF LAW

1. Claimant failed to prove through any credible evidence that the April 16, 1999 incident caused the need for the three surgeries that he had.
2. I find that Dr. Raskas' opinions to be very credible and that the treatment the Claimant received was not causally connected to his alleged work injury of April 16, 1999.
3. It is my opinion that Claimant did not sustain any permanent partial disability of the body as a whole referable to his incident at work on April 16, 1999, and that he is not permanently and totally disabled as a result of it.
4. Based upon the competent and substantial evidence contained in the whole record, Claimant has failed to meet his burden of proof on medical causation, that he sustained a compensable injury on April 16, 1999, and therefore Claimant is not entitled to payment for permanent partial disability, past or future medical expenses, future medical treatment, nor payment for any temporary total disability benefits.

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

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

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

A true copy: Attest:

\_\_\_\_\_  
Patricia "Pat" Secret  
*Director*  
*Division of Workers' Compensation*

Employee: Paul Gruenert

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