

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

Injury No.: 01-158524

Employee: Richard Hazelwood
Employer: Access Courier
Insurer: Missouri Employers Mutual Insurance Co.
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund
Date of Accident: Unknown
Place and County of Accident: Alleged 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 February 14, 2006, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Cornelius T. Lane, issued February 14, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 9th day of August 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

NOT SITTING

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Richard Hazelwood

Injury No.: 01-158524

Dependents: N/A
Employer: Access Courier
Additional Party: Second Injury Fund
Insurer: Missouri Employers Mutual Insurance Co.
Hearing Date: January 9, 2006

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: Unknown
5. State location where accident occurred or occupational disease was contracted: allegedly St. Louis, 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? 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:
Claimant allegedly hurt his back while lifting and throwing some objects onto a truck.
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: alleged bilateral shoulder and neck strain
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: Richard Hazelwood Injury No.: 01-158524

17. Value necessary medical aid not furnished by employer/insurer? None
18. Employee's average weekly wages: Unknown
19. Weekly compensation rate: Unknown
20. Method wages computation: Unknown

COMPENSATION PAYABLE

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

TOTAL:

-0-

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:	Richard Hazelwood	Injury No.: 01-158524
Dependents:	N/A	Before the Division of Workers' Compensation
Employer:	Access Courier	Department of Labor and Industrial
Additional Party:	Second Injury Fund	Relations of Missouri Jefferson City, Missouri
Insurer:	Missouri Employers Mutual Insurance Co.	Checked by: CTL:tr

PREFACE

The Claimant, Richard Hazelwood, was pro-se. Attorney Timothy Tierney represented the Employer/Insurer, Access Courier and Missouri Employers Mutual Insurance Company. The Second Injury Fund was represented by Assistant Attorney General Jennifer Chestnut. The Claimant's former law firm of Brown & Crouppen was represented by Ms. Susan Brown to assert an attorney's lien.

ISSUES

The following issues were in dispute:

- 1) Accident or occupational disease;
- 2) Date of accident;
- 3) Notice;

- 4) Medical causation;
- 5) Nature and extent of any permanent partial disability;
- 6) Nature and extent of temporary total disability;
- 7) Liability for past and future medical bills;
- 8) Necessity for future medical care;
- 9) Permanent total disability;
- 10) Second Injury Fund liability; and
- 11) Compensation rate.

EXHIBITS

The Claimant offered the following exhibits:

- Exhibit A. MRIs.
- Exhibit B. MRIs.
- Exhibit C. Box of Documents.

The Employer offered the following exhibits:

- Exhibit 1. Certified Medical Records of Dr. Flury.
- Exhibit 2. Decision from Missouri Division of Employment Security.

FINDINGS OF FACT

1. Claimant worked as a truck driver for Access Courier, the Employer. Claimant alleged different dates of work injury but also stated on or about August 25, 2001 he injured his back while at work.
2. Claimant alleges he injured his back but his claims indicate that he hurt his neck and shoulders. The remaining testimony was very vague.
3. With regard to the claim against the Second Injury Fund, Claimant presented no evidence with regard to preexisting disabilities.
4. Dr. Jenkins, a chiropractor, testified on behalf of the Claimant. He stated he had a lien in the amount of \$22,000.00 for his chiropractic fees. Dr. Jenkins testified that he did not know the exact dates of when the Claimant was injured other than what the Claimant indicated to him on different occasions and that also Dr. Jenkins felt that the Claimant had injured himself at work but that there was really no basis for that opinion. There was no evidence presented that Claimant's alleged work injury resulted in his being treated for those work injuries by Dr. Jenkins.
5. There was no evidence by which the Court could determine the date of any injury that Claimant sustained at work.
6. There was no evidence submitted by the Claimant as to the date of the injury or that proper notice was given to the Employer.

RULINGS OF LAW

1. The Claimant failed to sustain his burden of proof that there was an accident and therefore Claimant is awarded no benefits from the Employer/Insurer or the Second Injury Fund.
2. The Court did not review the Claimant's Exhibit "C" due to the fact that Exhibit "C" was not conveyed or given to the defense counsel or the Second Injury Fund counsel and the hearing had been finalized eight days prior to the request by the Claimant to accept into evidence Claimant's Exhibit "C". The Court only reviewed Claimant's Exhibits "A" and "B", but not Exhibit "C".
3. The Court overruled the Employer/Insurer and Second Injury Fund objections to Claimant's Exhibits "A" and "B".

DISCUSSION

There simply was not substantial credible evidence of a work accident. The testimony was of a very vague nature.

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