

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

Injury No.: 00-029157

Employee: Izudin Huskic
Employer: Labarge Products, Inc.
Insurer: MMA Workers' Compensation Fund
c/o Gallagher Bassett Services, Inc.
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund
Date of Accident: March 15, 2000
Place and County of Accident: St. Louis County, 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 December 9, 2000. The award and decision of Administrative Law Judge Matthew D. Vacca, issued December 9, 2000, is attached and incorporated by this reference.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 7th day of September 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

NOT SITTING

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

FINAL AWARD

Employee: Izudin Huskic

Injury No.: 00-029157

Dependents: N/A

Employer: Labarge Products, Inc.

Additional Party: Second Injury Fund

Insurer: MMA Workers' Compensation Fund c/o
Gallagher Bassett Services, Inc.

Hearing Date: October 24, 2005

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

Checked by: MDV:tr

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? Yes
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: March 15, 2000
5. State location where accident occurred or occupational disease was contracted: St. Louis County
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? Yes
10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted:
Fell from dumpster.
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: Back
14. Nature and extent of any permanent disability: 25% body as a whole
15. Compensation paid to-date for temporary disability: \$5,493.70
16. Value necessary medical aid paid to date by employer/insurer? \$11,180.91

Employee: Izudin Huskic

Injury No.:

00-029157

17. Value necessary medical aid not furnished by employer/insurer? -0-
18. Employee's average weekly wages: \$280.00
19. Weekly compensation rate: \$186.66/\$186.66
20. Method wages computation: Agreed

COMPENSATION PAYABLE

21. Amount of compensation payable:

126.57 weeks of temporary total disability (or temporary partial disability)

\$23,625.55
(less \$2,000.00 credit)

100 weeks of permanent partial disability from Employer \$18,666.00

22. Second Injury Fund liability: No

TOTAL: \$40,291.55

23. Future requirements awarded: None

Said payments to begin immediately 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 25% of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

Frank Niesen

FINDINGS OF FACT and RULINGS OF LAW:

| | | |
|-------------------|--|---|
| Employee: | Izudin Huskic | Injury No.: 00-029157 |
| Dependents: | N/A | Before the Division of Workers' Compensation |
| Employer: | Labarge Products, Inc. | Department of Labor and Industrial Relations of Missouri |
| Additional Party: | Second Injury Fund | Jefferson City, Missouri |
| Insurer: | MMA Workers' Compensation Fund c/o Gallagher Bassett Services, Inc. | Checked by: MDV:tr |

PREFACE

This case was previously tried on June 11 and 12, 2002, a hearing which resulted in issuance of a Temporary Award allowing Claimant further medical benefits and leaving open the question of temporary total disability benefits and permanent disability benefits.

Since the date of that Temporary Award, Claimant has sought no further medical treatment through the authorized treating physicians. Dr. Kennedy, a neurosurgeon, has examined Claimant on behalf of the Employer, as has Dr. Thomas Musich. Claimant has sought treatment at Family Medicine of St. Louis at his own expense. Claimant also treated with Dr. Mareno, a psychologist, and underwent a psychiatric evaluation with Dr. Wolfgram. Dr. Wayne Stillings examined Claimant from a psychiatric standpoint on behalf of the Employer.

ISSUES PRESENTED

The issues presented at the June 2002 hearing were the same issues presented at the October 24, 2005 hearing. Claimant contends that he is entitled to permanent and total disability benefits, past temporary total disability benefits, and future medical treatment. The Second Injury Fund denies liability and Employer contends that Claimant has unreasonably refused medical treatment under §287.140.5.

FINDINGS OF FACT

1. The previous Temporary Award is attached hereto and incorporated herein by reference and made a part of this award as if fully set out herein.
2. Since the Temporary hearing Claimant has reported significant improvement relative to his hand. He testified at the original hearing that the right hand was virtually useless but medical records indicate it was markedly improved by June of 2003 when he treated with Dr. Musich.
3. Claimant reports his shoulder problems to Family Healthcare on October 16, 2001 as a new problem. He initially voiced some shoulder complaints in the emergency room on the date of the injury but the shoulder problems he complains of at hearing are not related to the original accident.
4. Dr. Kennedy does not believe that Claimant has to undergo surgery to cure and relieve his back injuries. Dr. Kennedy finds Claimant's complaints to be surgically benign.
5. Dr. Mareno believes that Claimant was unwilling to cooperate with medical treatment and that he has a pattern of self-handicapping behavior and Dr. Mareno terminated his treatment because of aggressive and threatening behavior. It appears that Claimant treated with Dr. Mareno in the first instance so as to allow him to take his citizenship test without demonstrating proficiency or literacy in English so that he would be able to obtain Supplemental Security Income benefits.
6. Claimant testified in the original hearing that he was an ordinary soldier in the Yugoslavian army in 1971 to 1972 and Bosnian army in 1992 to 1995. Nevertheless, at the second hearing Claimant testified that he was a commander or officer in the military with 250 soldiers under his command and that he witnessed atrocities of neighbors, families, children and men under his command.
7. Claimant contends that he suffers from post-traumatic stress disorder.
8. Dr. Smith does not find any evidence of psychiatric disorder.
9. Dr. Marchosky believed that a herniated disc will heal and the disc material will be absorbed by the body and the pressure on the nerve roots will ultimately be resolved. This could take three to four years and often times the vertebrae will spontaneously fuse. He testified that surgery just replicates what nature will do and speeds it up.

RULINGS OF LAW

1. Crediting Dr. Marchosky's opinion, Claimant is entitled to three years of temporary total disability benefits. Claimant has been paid 29.43 weeks of benefits and is therefore entitled to 126.57 weeks of temporary total disability benefits for a lump sum of \$23,625.55. The Employer advanced Claimant \$2,000.00 so temporary total disability benefits owed less this credit amount to \$21,625.55.
2. Claimant is entitled to a 25% permanent partial disability as a result of the injuries sustained on March 15, 2000 while working for Labarge Products. This is to encompass any and all injuries received including the herniated disc and any injuries to his right upper extremity. This amounts to \$18,666.00.
3. Claimant is not permanently and totally disabled.
4. Claimant has chosen not to undergo any of the surgery or medical treatments advised by Employer's physicians. He has chosen to heal naturally without surgical intervention. He has healed. He is not entitled to further medical benefits other than those that have already been paid.
5. I don't find any preexisting disabilities upon which to ground any Second Injury Fund liability. The claim against the Second Injury Fund is denied.

DISCUSSION

Claimant has elected not to undergo medical treatment. I find Dr. Marchosky's opinion regarding healing taking

three years to be the most persuasive. I think Claimant is overstating his limitations. I believe Claimant engages in self-handicapping and self-limiting behavior with regard to physical abilities. I find it difficult to credit much of Claimant's testimony. His testimony is often incredible and inconsistent.

Date: _____

Made by: _____

Matthew D. Vacca
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Patricia "Pat" Secrest
Director
Division of Workers' Compensation