

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

Injury No.: 05-098541

Employee: Sandra Juhl
Employer: QuikTrip Corporation
Insurer: Self-Insured

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 Law. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated July 23, 2009, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Margaret D. Landolt, issued July 23, 2009, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 23rd day of December 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Sandra Juhl

Injury No.: 05-098541

Dependents: N/A

Employer: QuikTrip Corporation

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

Additional Party: N/A

Insurer: Self Insured

Hearing Date: May 14, 2009

Checked by: MDL

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? Yes
4. Date of accident or onset of occupational disease: September 28, 2005
5. State location where accident occurred or occupational disease was contracted: St. Louis, Missouri venue
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 insurer? Employer is self-insured
11. Describe work employee was doing and how accident occurred or occupational disease contracted:
Employee slipped and fell while mopping up a spill
12. Did accident or occupational disease cause death? No
13. Part(s) of body injured by accident or occupational disease: N/A
14. Nature and extent of any permanent disability: N/A
15. Compensation paid to-date for temporary disability: \$299.44
16. Value necessary medical aid paid to date by employer/insurer? \$1,562.25

Employee: Sandra Juhl

Injury No.: 05-098541

- 17. Value necessary medical aid not furnished by employer/insurer? \$2,538.56
- 18. Employee's average weekly wages: \$668.71
- 19. Weekly compensation rate: \$445.83/\$365.08
- 20. Method wages computation: Stipulation of the parties

COMPENSATION PAYABLE

21. Amount of compensation payable: 0

TOTAL: 0

23. Future requirements awarded: None

Said payments to begin 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:

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Sandra Juhl

Injury No.: 05-098541

Dependents: N/A

Before the
**Division of Workers'
Compensation**

Employer: QuikTrip Corporation

Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Additional Party: N/A

Insurer: Self-Insured

Checked by: MDL

PRELIMINARIES

A hearing was held on May 14, 2009 at the Division of the Workers' Compensation in the City of St. Louis, Missouri. Sandra Juhl ("Claimant") appeared pro se. QuikTrip Corporation, which is self-insured, was represented by Mr. Andrew LeRoy.

The parties stipulated that on or about September 28, 2005 Claimant sustained an accidental injury arising out of and in the course of her employment; venue is proper in the City of St. Louis, Missouri; and Employer received proper notice of the injury with regard to Claimant's knees. The parties further stipulated Claimant was earning an average weekly wage of \$668.71, and her rates of compensation are \$445.83 for Temporary Total Disability benefits, and \$365.08 for Permanent Partial Disability benefits.

The issues for resolution by hearing are: Whether the claim is barred by the Statute of Limitations; whether Claimant provided requisite notice for injuries to her hands, left wrist, and elbow; medical causation with respect to her left hand, wrist, and elbow; liability of Employer for past medical expenses in the amount of \$2,538.56; liability of Employer to provide future medical care; liability of Employer for past TTD benefits from January 4, 2008 to December 4, 2008; and whether either party is entitled to recover the costs of these proceedings.

FINDINGS OF FACT

On September 28, 2005 Claimant was working for Employer, mopping up a spill when she slipped and fell. Claimant testified she landed on both knees and her left wrist. Claimant reported the injury to her manager, who immediately completed a Report of Injury which Claimant signed, and which was received by the Division of Workers' Compensation on October 3, 2005. Claimant did not read the Report of Injury before she signed it, and testified she was in pain, and signed it under duress. Claimant testified she showed her manager all of her injuries including her left wrist, but her manager only reported her knee injuries.

Employer referred Claimant for medical treatment for her knees, and Claimant testified she asked the doctor for treatment for her left wrist, but he told her he was not authorized to treat her wrist.

Claimant received conservative treatment for her knee injuries, and her knees gradually improved. As her knees improved, her left wrist symptoms gradually deteriorated. After Employer continually denied Claimant's repeated requests for treatment for her left wrist, she sought treatment on her own, which eventually led to surgery on her left wrist to repair torn cartilage.

Claimant filed a Claim for Compensation on April 4, 2008. Claimant testified she was told the last payment on account of the injury occurred on March 16, 2006, but she has no documentation to support that. Employer offered Exhibit 8, a "Claim Abstract", into evidence to substantiate when the last payment on account of Claimant's injury was made by Employer. Without any testimony to provide meaning to the entries contained in Exhibit 8, the Court is unable to draw any inferences from that particular piece of evidence.

RULINGS OF LAW

Because the Claim for Compensation is barred by the Statute of Limitations, the Claim is denied, and the remaining issues before the Court are moot. Section 287.430 RSMo (2005) provides:

. . . No proceedings for compensation under this chapter shall be maintained unless a claim therefor is filed with the division within two years after the date of injury or death, or the last payment made under this chapter on account of the injury or death, except that if the report of the injury or the death is not filed by the employer as required by section 287.380, the claim for compensation may be filed within three years after the date of injury, death, or last payment made under this chapter on account of the injury or death.

Employer filed a Report of Injury dated September 28, 2005, which was received by the Division of Workers' Compensation on October 3, 2005. Section 287.380 RSMO (2005) provides Employers shall file reports of injury within 30 days after knowledge of the injury. Because Employer filed a timely Report of Injury, Claimant had two years to from the date of injury, or September 28, 2007, to file her Claim for Compensation. Accepting for the sake of argument Employer made its last payment on account of the injury on March 16, 2008, the Claim would still be barred by the Statute of Limitations because it was filed on April 4, 2008, more than two years after the last payment on account of the injury was made.

The Claim for Compensation is denied, and no costs are awarded.

Date: _____

Made by: _____

MARGARET D.LANDOLT
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Naomi Pearson
Division of Workers' Compensation