

**FINAL AWARD DENYING COMPENSATION**  
(After Mandate from the Missouri Court of Appeals  
for the Eastern District of Missouri)

Injury No.: 06-064603

Employee: Noneeka Massey  
Employer: Marsha and Frank Spasser  
Insurer: None

On July 13, 2010, the Missouri Court of Appeals for the Eastern District (Court) issued an opinion reversing the November 17, 2009, award and decision of the Labor and Industrial Relations Commission (Commission). *Massey v. Spasser*, ED94060, (Mo. App. E.D., July 13, 2010). By mandate dated September 23, 2010, the Court remanded this matter to the Commission for proceedings consistent with the Court's opinion. In particular, the Court ruled the Commission erred in awarding employee disability benefits and medical expenses.

Pursuant to the Court's mandate, we issue this award. Having reviewed the evidence and considered the whole record, we find that the administrative law judge's award finding that employee is a domestic servant and, therefore, excluded from workers' compensation coverage should be affirmed. As stated in the Court's opinion:

Black's Law Dictionary defines a domestic servant as, "a household servant." Black's Law Dictionary 501 (7<sup>th</sup> ed. 1999). A "servant" is defined as "a person who is employed by another to do work under the control and directions of the employer." [Employee] was employed by [Mr. and Mrs. Spasser] to take care of Mr. Spasser. She was formally interviewed by Mrs. Spasser. Mrs. Spasser required that [employee] be a CNA in order to be hired. After being hired, [employee] worked a set shift as designated by Mrs. Spasser and was paid by the Spassers. Clearly [employee] was under the control and directions of [Mr. and Mrs. Spasser]. Missouri Workers' Compensation law, strictly construed, was not intended to apply to work done in private homes to care for the members of private households."

*Id.* at \*5-6.

Under strict construction of § 287.090.1 RSMo, employee is a domestic servant and, therefore, exempt from workers' compensation coverage.

Pursuant to § 286.090 RSMo, we affirm the award and decision of the Administrative Law Judge John A. Tackes dated August 5, 2009. That award and decision is attached hereto and incorporated.

Given at Jefferson City, State of Missouri, this 15<sup>th</sup> day of October 2010.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

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Secretary