

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

Injury No.: 08-095810

Employee: Christine Moore
Employer: Neiman Marcus
Insurer: Liberty Insurance Corporation

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 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 § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated January 22, 2013, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Cornelius T. Lane, issued January 22, 2013, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 29th day of May, 2013.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

V A C A N T

Chairman

James Avery, Member

Curtis E. Chick, Jr., Member

Attest:

Secretary

AWARD

Employee: Christine Moore

Injury No.: 08-095810

Dependents: N/A

Before the
**Division of Workers'
Compensation**

Employer: Neiman Marcus

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

Additional Party: N/A

Insurer: Liberty Insurance Corporation

Hearing Date: November 14, 2012

Checked by: CTL

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: April 2008
5. State location where accident occurred or occupational disease was contracted: 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? Yes
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:
Verbal and mental harassment by coworkers causing mental and physical stress.
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: Mental and physical stress.
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: Christine Moore

Injury No.: 08-095810

17. Value necessary medical aid not furnished by employer/insurer? None

18. Employee's average weekly wages: \$634.89

19. Weekly compensation rate: N/A

20. Method wages computation: N/A

COMPENSATION PAYABLE

21. Amount of compensation payable: None

weeks of permanent partial disability from Employer

22. Second Injury Fund liability: N/A

weeks of permanent partial disability from Second Injury Fund

TOTAL:

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 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: Christine Moore

Injury No.: 08-095810

Dependents: N/A

Before the
**Division of Workers'
Compensation**

Employer: Neiman Marcus

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

Additional Party: N/A

Insurer: Liberty Insurance Corporation

Checked by: CTL

PREFACE

A hearing was held in the above mentioned matter and the Claimant, Christine Moore, was pro se. Attorney Alan Cotten represented the Employer/Insurer, Neiman Marcus and Liberty Insurance Corporation.

ISSUES

1. Accident or occupational disease;
2. Date of accident or occupational disease;
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; and
10. Compensation rate.

EXHIBITS

Claimant offered the following exhibits:

- A. Copy of medical report of Dr. Sky
- B. Copy of medical report of Dr. Smith
- C. Copies of emails between her former attorney and attorneys for Employer/Insurer
- D. Copies of various documents regarding an EEOC complaint.

The Employer/Insurer did not offer any exhibits.

FINDINGS OF FACT

1. Claimant, Christine Moore, stated in her testimony that she started working for the Employer, Neiman Marcus, in 1986 in the loss prevention department where she operated TV cameras and did investigation in the store to prevent internal and outside theft. Claimant testified that as a result of the position she had on many occasions testified in court involving arrests made as a result of thefts from the Employer's store. In 1999 to August 2008, when she was terminated, she worked in the sales support division, which involved shipping and receiving goods.
2. The Claimant testified that she went through a divorce in 2007 and that that is when the harassment by fellow employees at her place of employment began. Claimant testified that she began being harassed by coworkers who called her various names and overly harassed her while she was doing her work. Claimant testified when she was being harassed she did report it to her Employer. Claimant testified that she was being harassed by coemployees Sabrina Tompkins, Christopher Casey, Murray Linden and Cynthia Harte. The harassment involved very close monitoring of what she was doing, negative comments about her as a person, as well as remarks about her sexuality. Claimant testified that she had seen Dr. Sky and Dr. Smith for her complaints of harassment and her psychological problems.
3. Claimant also offered testimony from her son, ex-sister-in-law and ex-husband. The testimony essentially was that she did tell them that she had problems at work and that she was being harassed.
4. Employer/Insurer offered the testimony of Christopher Casey, Sabrina Tompkins and Murray Linden. The Employer's/Insurer's witnesses were very credible. The Claimant's supervisor Christopher Casey and coworker Sabrina Tompkins were very direct in their testimony that they did not know of any allegations of harassment that was made by the Claimant and their investigation said that they could never find Claimant being harassed.
5. The Employer's human resource employee Murray Linden said that the Claimant's complaints and allegations of improper conduct by fellow employees were promptly and thoroughly investigated. Ms. Linden testified that none of the complaints made by the Claimant were found to be true and that another coemployee claimed the Claimant was harassing her and making unwelcome advances. Ms. Linden also testified that Claimant was put under counseling, but she was finally discharged on August 22, 2008.

RULINGS OF LAW

1. The Employer's/Insurer's objections to Claimant's Exhibits A, B, C and D are overruled.
2. Claimant's testimony was not credible in light of all the evidence presented and I do not find that the Claimant was harassed. There was no evidence presented which showed that the Claimant's claim of being harassed caused the psychiatric problems that she claims she has.
3. The Claimant failed to show that she sustained a work-related injury.

Made by: _____

CORNELIUS T. LANE
Administrative Law Judge
Division of Workers' Compensation