

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

Injury No.: 02-056663

Employee: Bryan Portell
Employer: Ford Motor Company
Insurer: Self-Insured
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund (Open)

Date of Accident: Alleged May 29, 2002

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, as corrected herein, 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 July 12, 2006, and awards no compensation in the above-captioned case.

Paragraph five of the Findings of Fact is corrected to read as follows: Dr. Oliver, Claimant's personal doctor, saw the Claimant and he referred him to a Chiropractor, Dr. Goodwin. Claimant saw Dr. Goodwin a couple times and then came under the care of another chiropractor, Dr. Hendricks, who saw him from June 7, 2002, through September 13, 2002. Dr. Hendricks gave him electrical muscle stimulations and manipulations.

The award and decision of Administrative Law Judge Cornelius T. Lane, issued July 12, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 22nd day of November 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Bryan Portell

Injury No.: 02-056663

Dependents: N/A
Employer: Ford Motor Company
Additional Party: Second Injury Fund (Open)
Insurer: Self-Insured
Hearing Date: June 8, 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: Alleged May 29, 2002
5. State location where accident occurred or occupational disease was contracted: St. Louis County, Mo.
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? Self-Insured
11. Describe work employee was doing and how accident occurred or occupational disease contracted:
While operating a hoist, Claimant sustained injury to his upper back and neck while sneezing.
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: Neck and upper back
14. Nature and extent of any permanent disability: N/A
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? -0-

Employee: Bryan Portell Injury No.: 02-056663

17. Value necessary medical aid not furnished by employer/insurer? None
18. Employee's average weekly wages: \$1,000.00
19. Weekly compensation rate: \$628.90/\$329.42
20. Method wages computation: By agreement

COMPENSATION PAYABLE

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

TOTAL:

-0-

23. Future requirements awarded: None

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:	Bryan Portell	Injury No.: 02-056663
Dependents:	N/A	Before the Division of Workers' Compensation
Employer:	Ford Motor Company	Department of Labor and Industrial Relations of Missouri
Additional Party:	Second Injury Fund (Open)	Jefferson City, Missouri
Insurer:	Self-Insured	Checked by: CTL:tr

PREFACE

A hearing in the above mentioned matter was held on June 8, 2006. The Claimant, Bryan Portell, was represented by Attorney Thomas O'Driscoll. The Employer/self-insurer, Ford Motor Company, was represented by Attorney Kenneth Alexander.

ISSUES

1. Whether Claimant sustained an injury arising out of and in the course of his employment;
2. Medical causation;
3. Past medical bills and expenses; and
4. Nature and extent of permanent partial disability.

EXHIBITS

Claimant offered the following exhibits:

- Exhibit A. Ford Motor Company Medical Unit Records.
- Exhibit B. Medical Records of Dr. Kevin Oliver.
- Exhibit C. Medical Records of Dr. Mark Goodwin.
- Exhibit D. Medical Records of Dr. John Hendricks.
- Exhibit E. Medical Records of Injury Specialists.
- Exhibit F. Medical Records of Health South.
- Exhibit G. Deposition of Dr. Volarich.

Employer offered the following exhibit:

- Exhibit 1. Deposition of Dr. Russell Cantrell.

-
-
-
FINDINGS OF FACT

1. Claimant, at the time of hearing, stated he was born on February 2, 1967, was 39 years of age, and had worked at the Employer's assembly line since 1996 to the time of the hearing.
2. Claimant testified at that the time of his alleged injury he was working on a frame deck job which required him to operate a hoist with push buttons that moved frames assembled onto vehicles with the weight of each frame being between 300 and 600 pounds.
3. On May 29, 2002, at approximately 3:00 p.m., the Claimant was operating a hoist on the frame deck job and had positioned the frame while walking down an incline with both hands in an upright position and operating the hoist when he sneezed real hard three times and at the time third sneeze he felt severe pain between his shoulder blades and neck.
4. Claimant worked the rest of the day after the sneezing incident and the following day he went to the plant's medical facility and saw a plant nurse who told him she did not feel it was work related and he should go to his own personal doctor.
5. Dr. Oliver, Claimant's personal doctor, saw the Claimant and he referred him to a chiropractor, Dr. Hendricks. Claimant saw Dr. Hendricks a couple times and then came under the care of another chiropractor, Dr. Goodwin, who saw him from June 7, 2002, through September 13, 2002. Dr. Goodwin gave him electrical muscle stimulations and manipulations.
6. Claimant also saw Dr. Feinberg who gave the Claimant injections for myofascial pain complaints and then referred the Claimant to Health South for therapy.
7. Claimant testified that at the time of the hearing that he still has consistent pain in his upper back region and neck. Claimant returned to work on September 11, 2002.
8. Claimant essentially was diagnosed by various doctors and chiropractors with cervical, thoracic and left shoulder strains with myofascial pain.
9. At the time of the hearing Claimant stated that he was still having problems with pain in his back and neck.
10. Dr. Russell Cantrell testified very credibly on behalf of the Employer that when he examined the Claimant that Claimant had myofascial pain that originated from muscles and connected tissues in the thoracic area of the back. Dr. Cantrell further testified that the Claimant's myofascial complaints in the upper back, neck and trapezius area were not work related and that Claimant's problems arose as a result of the fact that he had sneezed.

CONCLUSIONS OF LAW

Thus, I find that Claimant did not sustain an accident arising out of and in the course of his employment and therefore there is no award for nature and extent of permanent partial disability or past medical expenses.

Date: _____

Made by: _____

Cornelius T. Lane
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Patricia "Pat" Secrest
Director
Division of Workers' Compensation

Employee: Bryan Portell

Injury No.: 02-056663