

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

Injury No.: 07-094763

Employee: Steve Rowens

Employer: City of St. Louis

Insurer: Self-Insured: CCMSI

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 June 18, 2009. The award and decision of Administrative Law Judge Cornelius T. Lane, issued June 18, 2009, 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 4<sup>th</sup> day of November 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

\_\_\_\_\_  
William F. Ringer, Chairman

\_\_\_\_\_  
Alice A. Bartlett, Member

\_\_\_\_\_  
John J. Hickey, Member

Attest:

\_\_\_\_\_  
Secretary

## AWARD

Employee: Steve Rowens Injury No.: 07-094763  
Dependents: N/A Before the  
Employer: City of St. Louis **Division of Workers'**  
**Compensation**  
Additional Party: N/A Department of Labor and Industrial  
Relations of Missouri  
Insurer: Self Insured: CCMSI Jefferson City, Missouri  
Hearing Date: May 5, 2009 Checked by: CTL: ms

### 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: September 19, 2007
5. State location where accident occurred or occupational disease contracted: City of 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? Yes
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 happened or occupational disease contracted:  
Claimant while walking across a parking lot stepped into a pothole and fell.
12. Did accident or occupational disease cause death? No Date of death? N/A
13. Parts of body injured by accident or occupational disease: Left ankle and knee
14. Compensation paid to-date for temporary disability: 5% of the ankle and 5% of the knee
15. Value necessary medical aid paid to date by employer/insurer? None
16. Value necessary medical aid not furnished by employer/insurer? \$1,015.98

Employee: Steve Rowens

Injury No.: 07-094763

- 17. Employee's average weekly wages: \$521.00 per week
- 18. Weekly compensation rate: \$347.35/347.35
- 19. Method wages computation: By agreement

**COMPENSATION PAYABLE**

20. Amount of compensation payable: 15.75 weeks of permanent partial disability

21. Second Injury Fund liability: N/A

TOTAL:	\$5,474.76
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Each of said payments to begin and be subject to modification and review as provided by law. This award is only temporary or partial, is subject to further order, and the proceedings are hereby continued and the case kept open until a final award can be made.

**IF THIS AWARD IS NOT COMPLIED WITH, THE AMOUNT AWARDED HEREIN MAY BE DOUBLED IN THE FINAL AWARD, IF SUCH FINAL AWARD IS IN ACCORDANCE WITH THIS TEMPORARY AWARD.**

The compensation awarded to the claimant shall be subject to a lien in the amount of 25% which is awarded above as costs of recovery of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: **Nile D. Griffiths**

**FINDINGS OF FACT and RULINGS OF LAW:**

Employee: Steve Rowens

Injury No.: 07-094763

Dependents: N/A

Employer: City of St. Louis

Additional Party: N/A

Insurer: Self Insured: CCMSI

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

Checked by: CTL: ms

### **PRELIMINARIES**

A hearing was held in the above mentioned matter on May 5, 2009. Claimant, Steven Rowens, was represented by attorney Nile D. Griffiths, and the City of St. Louis, the Employer/Insurer was represented by attorney Robert Hart. The hearing was one for a temporary decision but after having heard the evidence the court is rendering a final award.

### **STIPULATIONS**

The parties stipulated the following:

1. Claimant sustained an injury arising out of and in the course of his employment with the City of St. Louis.
2. Claimant was given medical treatment by Employer.

### **ISSUES**

1. Whether Claimant should receive medical treatment in the future as a result of his injury.
2. Causable connection for Claimant's request for additional treatment is related to his work injury of September 19, 2007.
3. Whether Claimant will be entitled to future temporary total disability and to what extent Claimant has sustained any permanent partial disability.

### **FINDINGS OF FACT**

1. Claimant a 52 year old man on September 19, 2007, tripped in a pothole injuring his left knee while working for the employer.
2. Claimant went to St. Louis University Emergency department on September 19, 2007 and saw his personal physician. In the St. Louis University Hospital records, Claimant's Exhibit 1 shows the Claimant gave a history of arthritis and there was a diagnosis of possible ligamentous injury.
3. Claimant on September 26, 2007 went to Concentra Medical for treatment, and at Concentra he saw Dr. Gray three times over a period of a couple of weeks and also had

some physical therapy and was returned by Concentra for full duty on October 3, 2007. The doctor at Concentra Medical diagnosed Claimant with having contusions to the left lower extremity as a result of his fall on September 19, 2007. Claimant after returning from treatment at Concentra was off for one week, and after returning to work he was terminated.

4. Dr. Volarich in February of 2008 saw the Claimant at the request of the Claimant's attorney. Dr. Volarich diagnosed the Claimant with internal derangement of the left knee, most likely a torn lateral meniscus and possible chondral injury.
5. On May 13, 2008 the Employer sent the Claimant to Concentra where he was examined by Dr. Riley Breeden. The records show Dr. Breeden found no swelling, no gait disturbance, and full range of motion of the left knee without discomfort. He also noticed the earlier diagnosis of contusion of knee and ankle and found that there was no further injury and didn't recommend any future treatment. Claimant retained the services of a second attorney who referred him to Dr. Cory Solman, and upon the doctor's examination and MRI was ordered on July 11, 2008. The MRI report of Dr. Solman does not make any specific findings on any torn ligaments. The doctor diagnosed left knee anterior cruciate ligament tear and medial meniscus tear and recommended surgery. Dr. Breeden saw the Claimant at the request of the Employer and found there is no pathology in his knee and found that any condition with regards to his knee must have occurred after having been seen at Concentra in October 2007.
6. Neither Doctors Gray and Breeden, the Employers physicians, found there was nothing to diagnosis an ACL tear or medial meniscus tear.
7. Claimant in his testimony with regard to his injury was not substantiated by the medical records which found for the most part contusions of the left knee and also that as a result of physical therapy when he was released he did not have any limp or range of motion problems in his left knee, ankle, or foot.

### **RULINGS OF LAW**

1. I find the opinions of Dr. Breeden who saw the Claimant to be most credible. Dr. Breeden testified that the physical findings made eleven months post-injury were in direct contrast of those made in the early course of treatment, and on physical examination by Claimant of a period of time after the fall of September 19, 2007.
2. If Claimant has a condition requiring future medical treatment there was not proof enough that shows that his condition was a result of the fall on September 19, 2007 at his Employer's place of business and therefore is not compensable.
3. Claimant as a result of the fall of September 19, 2007 did sustain a contusion of the left knee and left ankle and became MMI on October 3, 2007. I find the Claimant sustained 5% permanent partial disability to the left ankle and 5% to the left knee. Thus Claimant has set 15.75 weeks of compensation at the stipulated amount of \$347.35 permanent partial disability for a total sum of \$5,470.76.

4. Claimant is not awarded any future medical treatment.

Date: \_\_\_\_\_

Made by: \_\_\_\_\_

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

A true copy: Attest:

\_\_\_\_\_  
Naomi Pearson  
*Division of Workers' Compensation*