

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

Injury No.: 00-149517

Employee: Crystal Royal  
Employer: Advantica Restaurant Group, Inc.  
Insurer: American Casualty Company  
Date of Accident: October 15, 2000  
Place and County of Accident: Jackson 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 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 December 6, 2004. The award and decision of Administrative Law Judge Rebecca S. Magruder, issued December 6, 2005, 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 13<sup>th</sup> day of July 2005.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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

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

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

\_\_\_\_\_  
Secretary

**AWARD**

Employee: Crystal Royal

Injury No. 00-149517

Employer: Advantica Restaurant Group, Inc.

Insurer: American Casualty Co.

Additional Party: N/A

Hearing Date: November 3, 2004

Checked by: RSM/abj

### **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: October 15, 2000.
5. State location where accident occurred or occupational disease was contracted: Jackson County, 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? Yes.
11. Describe work employee was doing and how accident occurred or occupational disease contracted: While working at Denny's, Claimant slipped and fell on a wet floor.
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: Left knee, left hip, and low back.
14. Nature and extent of any permanent disability: None.
15. Compensation paid to date for temporary disability: \$3,340.17
16. Value necessary medical aid paid to date by employer/insurer? \$36,813.72
17. Value necessary medical aid not furnished by employer/insurer? None.
18. Employee's average weekly wages: \$297.00
19. Weekly compensation rate: \$198.01/\$198.01
20. Method wages computation: By agreement.

### **COMPENSATION PAYABLE**

21. Amount of compensation payable:

20 additional weeks of temporary total disability at \$198.01

TOTAL: \$3,960.20

23. Future requirements awarded: None.

Said payments to begin upon receipt of Award and to be payable and to 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 25 percent of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: Ms. Nancy Jackson.

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

Employee: Crystal Royal Injury No: 00-149517  
Employer: Advantica Restaurant Group, Inc.  
Insurer: American Casualty Co.  
Additional Party: N/A Checked by: RSM/abj

### **STIPULATIONS**

At the hearing the parties stipulated that:

1. On or about October 15, 2000, Denny's was an employer operating under the provisions of the Missouri Workers' Compensation law;
2. that their liability under said law was fully insured by American Casualty Company;
3. that on or about October 15, 2000, Crystal Royal was an employee of Denny's and was working under the provisions of the Missouri Workers' Compensation law;
4. that on or about October 15, 2000, Crystal Royal sustained an injury by accident arising out of and in the course of her employment;
5. that the employer had notice of the injury and that a Claim for Compensation was filed within the time prescribed by law;
6. that the average weekly wage was \$297.00 and that the applicable compensation rate for all weekly benefits was \$198.01;
7. that temporary benefits had been paid to the employee in the amount of \$3,340.17, said benefits ending February 19, 2001; and
8. that medical aid had been furnished in the amount of \$36,813.72.

### **ISSUES**

The issues to be determined at the hearing are:

1. The nature and extent of disability resulting from the October 15, 2000 accident;

2. liability for temporary total disability benefits for the period February 19, 2001, through July 10, 2001, or 20 weeks of temporary total disability benefits;
3. liability for future medical aid; and
4. the applicability of employer's defense based on a lack of compliance or an unreasonable refusal to comply with treatment, as set forth in §287.140.5.

## **EVIDENCE**

The claimant's evidence consisted of numerous medical records, a couple of photographs, some work ability reports and internal business records, as well as medical reports. In addition to expert reports authored by Sheba Khalid, M.D., P. Brent Koprivica, M.D., and Mary Titterington, the deposition testimony of these three experts was also offered and admitted into evidence. The employer's evidence consisted of duplicative medical reports and notes as well as Volumes I and II of the deposition testimony of Patrick Hughes, M.D., and the deposition testimony along with the medical records and the deposition of David Wilt, M.D.

Employer has conceded that the claimant sustained injury on October 15, 2000, when she slipped and fell in the course of her employment at Denny's. Claimant clearly slipped on a wet floor, fell, and sustained an injury to her left leg, left hip, and low back. These were minor injuries wherein she sustained a contusion to her leg as well as a low back strain. She left the emergency room in good condition. The real issue in this case is whether Claimant's alleged inability to walk is causally related to her fall at work and subsequent development of a deep-vein thrombosis. Having reviewed and considered all the evidence in this case, I make the following findings.

Claimant is 26 years old. She completed only the sixth grade and never attempted to take the GED examination. She has had no vocational training. She has worked exclusively in the fast-food industry, primarily in a cleaning capacity, although she did baby-sit for a while when she was quite young. Her past jobs required constant standing and walking as well as frequent bending and reaching. All of her former work was unskilled. She never held a job for longer than three months. When she was injured at Denny's on October 15<sup>th</sup>, she had only been there for three months.

On October 15, 2000, while working at Denny's as a dishwasher and assistant prep cook, Claimant, a 22-year-old female, slipped on a wet floor. She sustained a trauma to her left knee, left hip, and low back. She was seen the day of the accident at Independence Regional emergency room. X-rays were taken of the claimant's left knee, which were negative. The emergency room records indicate she had a left knee and left hip contusion as well as a lumbar strain. She was treated with anti-inflammatory medication. The emergency room records noted that the claimant was walking "without much difficulty." Upon physical examination, minimal lumbar tenderness was noted and all the findings with regard to her left hip were normal. There was a mild contusion on the lateral aspect of her left knee and mild pain was noted with extension and flexion of her left knee. The emergency room record indicates that she was released "in good condition." (Claimant's Exhibit A)

Three days later, at Business and Industry Health Group, Claimant had multiple complaints of pain in her left hip, left knee, and low back. She was noted to be walking with a slight left-sided limp. She continued to treat at Business and Industry Health Group and in addition to the anti-inflammatory medication which had been prescribed, narcotic pain medication was also prescribed. On November 1<sup>st</sup>, crutches were prescribed to "stabilize her gait and advance [her] degree of weight-bearing as tolerated." By November 6<sup>th</sup>, Business and Industry referred the claimant for an orthopedic evaluation with Dr. Rotramel. The claimant saw Dr. Rotramel on November 10<sup>th</sup> and he noted no anatomical problems with the claimant's left leg and low back. He felt there were findings suggestive of symptom magnification. An MRI and an electrodiagnostic test that he ordered were normal. The claimant continued to have pain and on November 21<sup>st</sup> had a duplex scan of her legs at Research Medical Center, which demonstrated a deep-vein thrombosis in her left lower extremity. She was hospitalized that same day at Research Medical Center and not released until December 2, 2000. She was admitted for Heparin treatment, bed rest, and evaluation of her pulmonary status. The claimant believes that she had a clot that went into her lungs. The medical evidence, however, is not definitive as to whether or not she did in fact have a pulmonary embolism (November 24<sup>th</sup> VQ scan and testimony and reports of all physicians). The claimant was diagnosed with early chronic obstructive pulmonary disease related to her nicotine use. Dr. Wilt was consulted to monitor the claimant's Heparin and eventual Coumadin therapy. Claimant's deep-vein thrombosis was noted to be resolved on November 28<sup>th</sup> (Exhibit A, page 263). Although her leg swelling decreased, the claimant continued to report pain in her leg. An orthopedic consult and x-rays showed no fracture (Exhibit A, page 258). Claimant, however, continued and continues to believe that she has had two

fractures in her leg. Dr. Patel, who was the orthopedic consult in the hospital, noted that the claimant did have atrophy and further noted that the atrophy was “a questionable type due to disuse.” The claimant was released from the hospital with instructions to follow up with Dr. Wilt for Coumadin treatment and monitoring. She was also instructed to follow up with Dr. Patel.

On January 11, 2001, Dr. Patel noted that he was not clear why the patient was still unable to use her left leg properly and ambulate (Exhibit A, page 430). Dr. Patel’s rehabilitation efforts were largely unsuccessful. By April 2001, Dr. Wilt was of the opinion that Claimant’s inability to walk was psychologically based and recommended that she stop using the crutches. Dr. Wilt did not see the claimant after April 2001 and took her off of the Coumadin as her deep-vein thrombosis had resolved and she no longer needed the Coumadin. The claimant did continue to treat at Business and Industry Health Group through July of 2001. In February she was advised not to use her crutches (Employer’s Exhibit 3). The last authorized physician to release the claimant from treatment was Dr. Ryan on July 10, 2001.

The records from February 2001 and ongoing demonstrate that there are absolutely no physiological bases for Claimant’s inability to bear weight on her left leg or to use it normally to walk. Not one expert who testified in this case or who authored a report which was admitted into evidence opines that the reason Claimant is not walking is physiologically based. All of the experts are of the opinion that the basis of Claimant’s unwillingness and/or inability to use her left leg is psychologically based. Undoubtedly the claimant’s left leg has atrophied since she has not used the muscles in that leg for approximately four years, but other than the atrophy of the leg, there is no neurological or orthopedic reason that Claimant cannot walk. There is also no evidence that the trauma that Claimant suffered when she fell on October 15, 2000, resulted in any permanent disability in and of itself. While the evidence does demonstrate that the trauma to her left knee was the cause of her deep-vein thrombosis, there is no evidence that the claimant has any lasting physiological effects from the deep-vein thrombosis.

Claimant has been using crutches and a support brace on her foot since shortly after the accident. Claimant has a myriad of complaints at this point in time, including severe pain in her left leg with occasional numbness and tingling. She also complains that she continues to try to walk on her own without the crutches but falls every time she tries. She complains of stiffness and aching. The claimant also testified that she has some fears that she might have a recurrence of the deep-vein thrombosis. She did not, however, appear to be overly concerned with the possibility of developing any kind of deep-vein problem in the future. Although she testified on cross-examination to a question regarding her deep fears about her future, which developed while she was in the hospital in November of 2000, her overall demeanor really did not demonstrate to me that she was unreasonably fearful.

Having reviewed and considered all of the expert testimony in this case, I find that the bases for Claimant’s physical complaints are solely psychological. There is really no dispute or contention otherwise.

There are psychiatric reports in evidence from both the employer and the employee and a psychological report and profile offered into evidence by the claimant. All three of these experts are of the opinion that the claimant has a type of what is termed a somatoform disorder. Both Dr. Hughes and Dr. Deutch are of the opinion that the claimant has what is called a “somatization disorder,” and Dr. Khalid is of the opinion that the claimant has what is called an “undifferentiated somatoform disorder.” Both the somatization disorder and the undifferentiated somatoform disorder are two sub-types of somatoform disorders. While there is lengthy testimony as to which type of disorder the claimant has and the earmarks of each of those disorders, I do not believe it is necessary that I make a specific finding as to what type of somatoform disorder the claimant now has. I do find, based on all of the medical records and expert testimony and reports, that the claimant clearly has a somatoform disorder. I further find that she is currently unable to obtain gainful employment and without significant psychological improvement will remain unemployable and not competitive on the open labor market. (*See* Claimant’s Exhibit K, the deposition testimony of Mary Welch Titterington). Dr. Sheba Khalid, a psychiatrist who examined and was the expert of the claimant, explained that the DSM IV (the primary guide used by all American psychiatrists regarding major clinical disorders) category for undifferentiated somatoform disorder requires that one or more physical complaints, for example, fatigue, loss of appetite, gastrointestinal, or urinary complaints, must be present and that “after appropriate investigation, the symptoms cannot be fully explained by a known general medical condition or by the direct effects of a substance such as medication, drugs, or alcohol.” She further explained that the DSM IV category states that “when there is a general medical condition or related general medical condition, the physical complaints or resulting social or occupational impairment is in excess of what would be expected from the history of physical examination or laboratory findings.” The third criteria, she explained, is that “the symptoms are clinically significant distress or impairment in social, occupational, or other important areas of functioning.” And, finally, “the duration of the disturbance is at least six months and the disturbance is not better accounted for by another mental disorder, . . . and that the symptom is not intentionally produced or feigned” (Claimant’s Exhibit I, pages 12 and 13). Dr. Khalid opined that the claimant fit within this diagnosis, the undifferentiated somatoform disorder, more than within the somatization disorder. In order to be diagnosed with a

somatization disorder, Dr. Khalid explained, the patient must have a history of physical complaints before the age of 30 which persist for several years. The patient must also have four pain systems in four categories, two in the gastrointestinal, one pseudoneurological, and one sexual. Dr. Khalid did not find or believe that the claimant had complaints in these specific areas and therefore did not have a somatization disorder; rather, she diagnosed the claimant with having the undifferentiated somatoform disorder. Finally, Dr. Khalid did not believe she had a sufficient basis upon which to diagnose the claimant as having any particular psychological disorder before October 15, 2000.

Dr. Hughes not only diagnosed a full-blown somatization disorder subsequent to October 15, 2000, it was his opinion that the claimant had this disorder prior to the work accident. Dr. Hughes was of the opinion that the claimant had a somatization disorder by at least the age of 16. He relied heavily on one Truman Medical Center pediatrician's records in arriving at this conclusion. The Truman Medical Center record, dated October 14, 1994, on which Dr. Hughes relies reads as follows:

"Crystal is a 16-year-old white female with history of adenotonsillar hypertrophy with airway obstruction and chronic tonsillitis that has been refractory to medical management including IV treatment. She has recently had seizures approximately three weeks and an episode of hypoglycemia. She had two CT scans and an EEG that they did not know the results of. She is snoring and complains of acute shortness of breath, weakness, and blurred vision of late that mother says was worked up at Truman. She has probable allergies in that she is symptomatic around grasses. She also complains of headaches. She is status post lumbar puncture times three. She currently is on no medications and is allergic to no medications.

"Past history is significant for the above-mentioned problems. She is the product of a normal pregnancy and delivery. Immunizations are up-to-date. She has a seven-year history of smoking, smokes one pack a day. She admits to drinking eight beers a day and is sexually active with no birth control and says she only has one partner."

While the claimant did have a normal EEG after the alleged seizures and hypoglycemia was never mentioned in any other records that I found, I simply do not think the information contained in these records sufficiently demonstrates Claimant had met the criteria for Dr. Hughes' conclusion that she had a somatization disorder prior to the work-related fall. Dr. Hughes also pointed to records showing the claimant had repeatedly sought evaluation for a breast mass and reported a workplace wrist injury in 1999. The records demonstrate, however, that Claimant had a physiological basis for these complaints. Considering all the evidence, I do not find the claimant had any full-blown psychological disorder prior to October 15, 2000, particularly not the somatization disorder Dr. Hughes diagnosed.

I find, based on all of the medical records and expert testimony and reports, that the claimant has had a somatoform disorder since shortly after the October 15, 2000, accident. While there is lengthy testimony from the experts as to which type of disorder the claimant now has, I do not think it is necessary that I make a specific finding as to which type of disorder the claimant has. I do find she clearly has a severe form of one of the two somatoform disorders discussed (most likely the undifferentiated somatoform disorder as diagnosed by Dr. Khalid), which is the basis of her inability to ambulate.

Due to her inability to walk and her limited education, work experience, and intelligence level, I further find that she is currently unable to obtain gainful employment. Without significant psychological improvement, I find she will remain unemployable and not competitive on the open labor market. (*See* Claimant's Exhibit K, the deposition testimony of Mary Welch Titterington).

The fundamental question which remains is whether work (in this case, the unquestionable work-related fall of October 15, 2000, and resulting left leg and hip injury, including the deep-vein thromboses and treatment therefore) was a significant factor in causing the claimant's psychological disability (i.e., her somatoform disorder). Stated another way, Claimant's psychological disorder, which I have found is the basis or root cause of her inability to walk, can be found compensable only if it is clearly work-related. Under Missouri Workers' Compensation law, a psychological injury allegedly caused by a physical injury is clearly work-related if the claimant's work was a substantial factor in the cause of the psychological disorder, but an injury is not compensable merely because work was a triggering or precipitating factor. *See* §287.020.2 (R.S.Mo. 2000). (A separate test is required when a mental injury is alleged to have resulted from psychological work-related stress.) *See* §287.120.8 (R.S.Mo. 2000).

In Bloss v. Plastic Enterprises, 32 S.W. 3d, 666 (Mo.App. 2000), the court held that the claimant's symptom magnification disorder arose out of her employment. The employer contended that the claimant's psychological disorder arose from her pre-existing dysfunctional personality rather than from her work-related trauma. Claimant fell at her place of employment, landing on her lower left back. Like the claimant in the case at bar, she required immediate medical attention

and the doctor in that case diagnosed a contusion. The doctor prescribed medication and returned her to full duty at work. The claimant continued to treat and was prescribed physical therapy and conservative medical treatment. Several months later she testified that her pain had worsened to the point where she could no longer get out of bed. She was diagnosed with a symptom magnification disorder. Several experts expressed the opinion that the claimant was permanently disabled from gainful employment as a direct result of the physical trauma she sustained and of the psychological condition resulting directly therefrom. The Commission found the claimant permanently and totally disabled as a result of the work-related injury. The employer appealed the decision, contending that the claimant's symptom magnification disorder did not arise out of and in the course of her employment, contending that work was not a substantial factor in causing her mental injury. The employer contended that her mental condition was the result of her dysfunctional personality, which pre-existed the work-related slip-and-fall accident. The court agreed that an injured employee must always show a causal link between the injury and employment. Furthermore, if medical causation is not within common knowledge or experience, there must be medical evidence showing the cause-and-effect relationship between the complained-of condition and the alleged cause. *Id.* at 7. The court, however, found that the Commission could have reasonably made the findings it did upon consideration of all the evidence. The court found competent and substantial evidence to support the award and affirmed the Commission's determination.

In Tibbs v. Rowe Furniture Corporation, 691 S.W. 2d, 410 (Mo.App. 1985), the court affirmed the Commission's denial of benefits, finding that the claimant's mental condition was not caused by the work-related accident. In that case the claimant suffered a compensable accident when he cut the little finger of his left hand with an electric knife. He was awarded 10 percent permanent partial disability to his left little finger but denied benefits for the mental condition which he claims was caused by the accident. Appellant's mental condition was variously described as schizophrenia, major depression, or depressed psychosis. At that time, 1981, the work-related test for causation was different than it has been since August of 1993. Prior to 1993, if a work-related accident was found to be an efficient exciting, super-inducing, concurring, triggering, or contributing cause, the injury was deemed to be compensable. Evidence of causation at that time was sufficient if the work-related accident precipitated the development of the employee's psychological symptoms. There was no statutory requirement that a work-related accident be a significant factor as in the case today. The Tibbs court stated that ordinarily it was sufficient if the claimant shows the essential elements of his claim by a "reasonable probability." The Tibbs court questioned the validity of some older cases which required the causal connection between a work-related accident and a mental condition be proven by "clear evidence." Tibbs at p. 412. The court in Tibbs stated that if "clear evidence" was a higher standard, there was no real explanation in prior cases as to why that higher standard was necessary. The court surmised that perhaps the distinction was that the causation of a mental condition is not as apparent as that of many physical conditions and that proof of it would almost always be dependent on expert testimony. In Tibbs, the Court of Appeals affirmed the administrative law judge's finding that the evidence was insufficient to establish causation between the work-related event and the ensuing psychological disability.

As the court in Tibbs pointed out, it is unclear whether the "clear evidence" standard is different in kind or degree than the "reasonable probability" standard required by nonpsychological injuries and, if so, what that difference really is. I assume that there is no difference in the standard of causation or the burden of proof in establishing a mental injury caused by a physical trauma or a physical injury caused by a physical trauma. Nonetheless, I find that there was no "reasonable probability," no "clear evidence," and no "substantial factor" to create a causal link between the accident of October 15, 2000, and her psychological problems. The current test for a physical trauma resulting in a psychological or mental injury is the same as the test for a physical trauma resulting in a physical injury and is set forth in §287.020.2 (R.S.Mo. 2000): "An injury is compensable if it is clearly work-related. An injury is clearly work-related if work was a substantial factor in the cause of the resulting medical condition or disability. An injury is not compensable merely because work was a triggering or precipitating factor."

Claimant did provide evidence by way of the testimony of Mary Titterington and Dr. Khalid which conceivably could establish causation between the work-related accident and the claimant's psychological disorder. Both experts concluded that the injury of October 15, 2000, was a substantial factor in the development of the claimant's current psychological impairment (Claimant's Exhibit I, page 14, and Claimant's Exhibit K). However, there was no helpful explanation as to how the claimant's somatization disorder was related to or caused by the work-related accident. The following testimony is the only explanatory testimony of the causal connection, and this line of testimony was elicited during her deposition on cross-examination:

"QUESTION: All right. If that's true, how in the world can you support a statement that this accident of October 15, 2000, was a substantial factor in causing this diagnosis of psychiatric impairment that you've come up with?

"ANSWER: Because there is no evidence that there was anything before. So this is within a reasonable

degree of medical certainty that this all took place after that injury. Makes a lot of sense to me.”

This explanation is simply insufficient to persuade me of any significant connection between Claimant’s October 15, 2000, accident at work and her somatoform disorder manifested most obviously in her inability to walk. While it is true that the claimant had no difficulty walking before the October 15<sup>th</sup> injury and did have problems walking within two weeks of the work-related accident, this close relationship in time between the injury and the complained-of condition does not in and of itself establish causation. Admittedly, the manifestation of the claimant’s psychological condition is most poignant and disabling with regard to her belief that she cannot bear weight on her left leg, the same part of the body that was injured as a result of the October 15<sup>th</sup> accident. Therefore, there is a relationship, both in time and space, between the accident and the complained-of condition. In other words, the manifestation of the claimant’s mental disorder related to the part of her body that was physically injured as a result of the accident, her left leg, and the manifestation of that mental disability began to take form shortly after the October 15<sup>th</sup> accident. Even though I have found the claimant had no full-fledged psychiatric disorder prior to October 15, 2000, I am unconvinced that the work-related accident and physical injury to the claimant’s left knee and leg or the resulting deep-vein thrombosis was a significant cause of the claimant’s psychological disorder. As was stated in Tibbs v. Rowe Furniture, the causation of a mental condition is not as apparent as that of many physical conditions. A conclusory but unsupported statement that work was a significant factor in causing the claimant’s mental condition simply is not enough to carry the claimant’s burden of proof. I need further explanation as to the relationship between the work-related injury and the mental condition. The record lacks any explanation as to how work was a substantial factor in causing the claimant’s somatoform disorder. I do find, based on the circumstantial evidence in this case (i.e., the close spatial and time relationship between the accident and the ensuing mental disorder focused primarily on the claimant’s left leg), that the work-related accident and injury to the claimant’s left leg was somehow and in some way a precipitating factor in causing her psychological disorder. However, I cannot find that work (in this case the October 15, 2000, fall, the injury she sustained at that time to her leg and low back, and the deep-vein thrombosis which developed or the medical treatment she received) was a substantial factor in causing her somatoform disorder. There simply was no expert testimony or evidence as to how a trauma or deep-vein thrombosis or anxiety about possible recurrences can be a substantial factor in causing a somatoform disorder.

Although I relied very little on Dr. Hughes’ testimony in reaching my conclusions in this case, his testimony regarding the causes of somatoform disorders was most informative and helpful. Dr. Hughes explained that these disorders involve unmet dependency needs from childhood. He explained that most people who have these disorders never got the caretaking, love, support, security, and attention from their parents that is needed to grow up and become self-sufficient, confident people. Therefore, they seek the attention of presumably kindly and caring physicians to meet those needs (Exhibit 2-A, pages 34, 35, 54, 55). Dr. Hughes further explained that all children are born helpless and need and want physical and emotional parental care. Children who receive care and nurturing when young generally mature into adolescents who embrace self-reliance, more so as young adults. Those who are denied this emotional support have unmet needs that drive them to seek it throughout adult life.

Claimant testified that she dropped out of school after the fifth grade because she wanted to home school. She testified that she went back to school in the eighth grade but dropped out again because she wanted to baby-sit for her brother. She moved out of her parents’ home when she was 13 years old so she could live with her brother and baby-sit his children. Although the claimant denied any kind of abuse or neglect in her childhood, the recited facts of her childhood demonstrate otherwise. She was allowed to leave home at the age of 13 to baby-sit her brother’s children and was allowed to quit school after the sixth grade. Her reasons for leaving home and quitting school simply were not convincing. It was noted in the previously quoted Truman Medical Center record that Claimant was sexually active and drinking at age 16. None of these facts indicate a normal, nurturing childhood.

The psychological tests performed by Dr. Deutch demonstrate Claimant places herself in an overly positive light by minimizing faults and denying psychological problems. She has little awareness of her difficulties. The Minnesota Multiphasic Personality Inventory demonstrates that she has numerous physical complaints but underestimates her psychological problems.

While I did not find that the claimant had any type of full-fledged psychological disorder prior to October 15, 2000, I think the evidence in the case does show that the claimant had tendencies to over exaggerate her physical complaints even before October 15, 2000. Given Dr. Hughes’ testimony regarding the cause of somatoform disorders and the above facts regarding Claimant’s history, I am not persuaded that work was a substantial cause of Claimant’s somatoform disorder.

Therefore, with regard to the first issue in the case, I find Claimant sustained no permanent disability as a result of the injury she sustained when she fell at Denny’s on October 15, 2000. She did sustain a physical injury which was

complicated by her development of a deep-vein thrombosis, but there is no evidence of any permanent disability resulting therefrom.

With regard to the second issue in the case, I find in Claimant's favor. Claimant has requested that 21 weeks of temporary total disability benefits be awarded to her. Claimant was not released from active treatment by one of the authorized treating physicians, Dr. Ryan, until July 10, 2001. Although the actual effects of Claimant's work-related accident may have resolved medically much earlier than July 10<sup>th</sup>, the fact that she was not released from active treatment by an authorized physician is arguably sufficient evidence to entitle her to temporary total disability benefits until that release date.

With regard to the third issue in the case, the liability for future medical aid, that issue is ruled against the claimant. Any and all of her future medical needs will most likely involve the effects of her psychological disorder, which I have found is unrelated to her work at Denny's.

The last issue in the case is the applicability of the employer's defense based on an alleged lack of compliance or an unreasonable refusal to comply with treatment as set forth in §287.140.5. The issue need not be decided because I have found that the claimant's psychological disorder is unrelated to her work accident.

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

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

Rebecca S. Magruder  
*Administrative Law Judge*  
*Division of Workers' Compensation*

A true copy: Attest:

\_\_\_\_\_  
Gary Estenson  
*Acting Director*  
*Division of Workers' Compensation*