

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

Injury No.: 00-177272

Employee: Vickie Schlosser

Employers: 1) Aerotek  
2) LaPorte Pigments, Inc.

Insurers: 1) Specialty Risk Services  
2) Royal Insurance Co.

Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund

Date of Accident: February 9, 2000

Place and County of Accident: Allegedly St. Louis, 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 October 19, 2006, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Margaret D. Landolt, issued October 19, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 27<sup>th</sup> day of July 2007.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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

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

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

Attest:

\_\_\_\_\_  
Secretary

**AWARD**

Dependents: N/A  
Employer: Aerotek  
LaPorte Pigments, Inc.  
Additional Party: Second Injury Fund  
Insurer: Specialty Risk Services  
Royal Insurance Co.  
Hearing Date: August 2, 2006

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

Checked by: MDL: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: February 9, 2000
5. State location where accident occurred or occupational disease was contracted: allegedly St. Louis, Mo.
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? No
7. Did employer receive proper notice? No
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:  
Employee alleged she was exposed to chemicals at work.
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: Alleged body as a whole
14. Nature and extent of any permanent disability: -0-
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? \$577.76

Employee: Vickie Schlosser Injury No.: 00-177272

17. Value necessary medical aid not furnished by employer/insurer? None
18. Employee's average weekly wages: Not determined
19. Weekly compensation rate: Not determined
20. Method wages computation: N/A

### 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:	Vickie Schlosser	Injury No.:	00-177272
Dependents:	N/A	Before the	<b>Division of Workers'</b>
Employer:	Aerotek LaPorte Pigments, Inc.	<b>Compensation</b>	Department of Labor and Industrial
Additional Party:	N/A		Relations of Missouri Jefferson City, Missouri
Insurer:	Specialty Risk Services Royal Insurance Co.	Checked by:	MDL:tr

### **PRELIMINARIES**

A hearing was held on August 2, 2006, at the Division of Workers' Compensation in the City of St. Louis. Vickie Schlosser ("Claimant") appeared *pro-se*. Aerotek ("Employer") and its Insurer, Specialty Risk Services, were represented by Ms. Julie Madsen. LaPorte Pigments, Inc. and its Insurer Royal Insurance Co. were represented by Mr. Tim Piatchek. The Second Injury Fund was represented by Assistant Attorney General Kristen Frazier. Barnes Jewish Hospital was represented by Mr. Nicholas Higgins.

There were no stipulations in this case. The issues to be determined by hearing are whether Claimant sustained an accident by way of chemical exposure which arose out of and in the course of her employment with Employer or La Porte Pigments, Inc., payment of past medical bills, future medical benefits, permanent partial disability, and rate.

The record reflects Exhibits A, B, F, G and Q were entered into evidence by Claimant over objections by all parties.

Exhibits 3 was entered into evidence by Employer without objection.

The Court took administrative notice of the Notice of Services Provided and Request for Direct Payment filed by Barnes Jewish Hospital.

Claimant's Motion for Contempt was denied, and La Porte Pigment Inc.'s Motion to Dismiss was denied.

### **SUMMARY OF EVIDENCE**

Claimant testified that she began working at La Porte Chemicals on an assignment from Employer Aerotek, a temporary agency. Claimant testified that she was an employee of Employer. She received her paycheck and W2's from Employer. She testified she was a lab technician in the quality assurance lab, and sometime in February 2000, she became ill after she was exposed to fumes at work. She testified she was not sure what the fumes were. She also testified to additional chemical exposure which came through the vents, the walls, the warehouse and other areas at her work place. The dates of the alleged exposure were unclear.

Claimant testified after her exposure in February 2000, Employer sent her by cab to the emergency room at Barnes Hospital, and she was told to follow up with Barnes Care. At Barnes Care, Claimant complained of vision problems, headaches, nausea, and eye problems. She was given Imitrex for her migraines. Claimant testified she had a breathing test which was normal.

Claimant testified when she returned to work she started noticing problems with her eyes. According to Claimant, Employer advised her to see Dr. Cerutti, an ophthalmologist. Claimant testified Dr. Cerutti advised her that her corneas were burned, and she was advised to see Dr. Hart, a neuro-ophthalmologist. Claimant testified she treated with Dr. Hart, who sent her to a neurologist.

Claimant testified she also treated with Dr. Pentella for migraines, anxiety and depression. Claimant admitted to having migraines in 1992 with loss of vision and headaches.

No medical records were admitted into evidence to support Claimant's claim that her alleged exposure on February 9, 2000 caused any of her current complaints, or that she had any permanent disability as a result of her alleged exposure on February 9, 2000. There was no testimony or evidence presented regarding Claimant's wages before her alleged date of injury, or her wage rates for permanent disability as of February 9, 2000. There was no testimony regarding the reasonableness or necessity of the medical bills submitted by Barnes for the Claimant's brain MRI on September 20, 2001. There was no testimony or medical evidence presented to support any need for future medical treatment relating to the alleged exposure on February 9, 2000.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon my observations of Claimant at hearing, my review of the evidence, and the application of Missouri law, I find:

Claimant was an employee of Employer Aerotek on February 9, 2000.

Claimant failed to meet her burden of proving that an accident occurred on or about February 9, 2000, and that such accident resulted in an injury to Claimant. Section 287.020.2 RSMo defines the term "accident" as an unexpected or unforeseen identifiable event or series of events happening suddenly or violently, with or without human fault, and producing at the time objective symptoms of an injury. Although Claimant testified to some sort of event or series of events which occurred on or around February 9, 2000, there is no medical evidence to suggest that any particular event or series of events occurred on or around that date. Claimant could not identify what she was allegedly exposed to, nor identify how or when she was allegedly exposed. Thus, there is insufficient evidence to conclude that Claimant suffered an "accident" under §287.020.2 RSMo.

Further, I find that even if Claimant did suffer an accident, there is insufficient evidence to establish any causal connection between the accident and Claimant's condition. Furthermore, there was no testimony or evidence presented regarding the nature and extent of any permanent partial disability Claimant sustained. Because I find Claimant failed to meet her burden of proving she suffered an accident, or that the alleged accident resulted in an injury to Claimant, the additional issues of wage rate, payment of Barnes Jewish Hospital MRI bill,

liability for future medical, and permanent partial disability are moot.

There is no evidence that Claimant was an employee of La Porte Pigments Inc., and the claim against La Porte Pigments is dismissed.

Because the claim against Employer has failed, the claim against the Second Injury Fund is dismissed.

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

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

Margaret D. Landolt  
*Administrative Law Judge*  
*Division of Workers' Compensation*

A true copy: Attest:

\_\_\_\_\_  
Patricia "Pat" Secrest  
*Director*  
*Division of Workers' Compensation*

Employee: Vickie Schlosser

Injury No.: 00-177272