

**TEMPORARY OR PARTIAL AWARD**  
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 08-101748

Employee: Ann Shinkle  
Employer: The Fountains of West County  
Insurer: FirstComp Insurance

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission for review as provided by § 287.480 RSMo, which provides for review concerning the issue of liability only. Having reviewed the evidence and considered the whole record concerning the issue of liability, the Commission finds that the award of the administrative law judge in this regard 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 and adopts the award and decision of the administrative law judge dated September 15, 2011.

This award is only temporary or partial, is subject to further order and the proceedings are hereby continued and kept open until a final award can be made. All parties should be aware of the provisions of § 287.510 RSMo.

The award and decision of Administrative Law Judge Cornelius T. Lane, issued September 15, 2011, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 8<sup>th</sup> day of February 2012.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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James Avery, Member

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Curtis E. Chick, Jr., Member

Attest:

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Secretary

## TEMPORARY OR PARTIAL AWARD

Employee:	Ann Shinkle	Injury No.:	08-101748
Dependents:	N/A		Before the
Employer:	The Fountains of West County		<b>Division of Workers'</b>
Additional Party:	Second Injury Fund		<b>Compensation</b>
Insurer:	FirstComp Insurance		Department of Labor and Industrial
			Relations of Missouri
			Jefferson City, Missouri
Hearing Date:	July 18, 2011	Checked by:	CTL

### 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, 2008
5. State location where accident occurred or occupational disease contracted: St. Louis 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 happened or occupational disease contracted:  
Claimant's work as a housekeeper in which she performed repetitive motion caused the Claimant to have bilateral carpal tunnel syndrome.
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 and right hands and wrists and upper extremities
14. Compensation paid to-date for temporary disability: 0
15. Value necessary medical aid paid to date by employer/insurer? 0
16. Value necessary medical aid not furnished by employer/insurer? None

Employee: Ann Shinkle

Injury No.: 08-101748

- 17. Employee's average weekly wages: \$395.20
- 18. Weekly compensation rate: \$263.47 TTD and PPD
- 19. Method wages computation: Stipulation

**COMPENSATION PAYABLE**

20. Amount of compensation payable:

Employer is required to provide necessary medical care to cure and relieve Claimant's upper bilateral carpal tunnel syndrome and right lateral epicondylitis.

21. Second Injury Fund liability:

TOTAL:

22. Future requirements awarded:

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: James A. Fox

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

Employee: Ann Shinkle

Injury No.: 08-101748

Dependents: N/A

Before the

Employer: The Fountains of West County

**Division of Workers'  
Compensation**

Additional Party: Second Injury Fund

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

Insurer: FirstComp Insurance

Checked by: CTL

**PREFACE**

A hardship hearing was held in the above-mentioned matter on July 18, 2011. Ann Shinkle was the Claimant and was represented by Attorney James A. Fox. The Employer, The Fountains of West County, was represented by Attorney Patrick N. McHugh.

**STIPULATIONS**

1. Claimant was employed at The Fountains of West County at the time of the alleged date of injury.
2. Claimant's compensation rate is \$263.47 for temporary total disability and permanent partial disability.
3. Employer has paid no compensation benefits to the Claimant.

**ISSUES**

1. Is Claimant's alleged bilateral carpal tunnel syndrome causally related to the work the Claimant did on behalf of the Employer?
2. Is Employer liable for future medical benefits to Claimant?

**EXHIBITS**

Claimant's Exhibits:

- A. Deposition transcript of Dr. Schlafly
- B. Medical records of Dr. Naidu
- C. Medical records of Dr. Hoffmann

## Employer's Exhibits:

1. Deposition transcript of Dr. Brown
2. Photographs – kitchen and living room of unit

**FINDINGS OF FACT**

1. Claimant testified that she is a divorced mother of three and that she is 49 years of age. Claimant testified that she was employed by the Employer in February of 2007 and last worked for the Employer in October of 2008.
2. Claimant worked for the Employer as a housekeeper wherein she worked five days a week and would clean. The Employer ran an assisted living retirement facility. Claimant in her work vacuumed 13 to 14 rooms a day five days a week. Claimant testified that she would have to clean the kitchen areas, floors, baseboards and appliances. Claimant also was required to clean the walls and windows and flooring in the residents' rooms. Claimant further testified her work duties required her to work on her hands and knees and clean floors and the bathrooms. Claimant also had to vacuum, mop and dust. Claimant's duties also included cleaning of carpet stains, sweeping decks and doing laundry.
3. Claimant testified that she started having numbness in her hands and elbows when working for the Employer approximately a year to a year and a half from the beginning of her time there. Claimant said the problems she was having were pain and numbness in her hands and elbows. Claimant further testified that at the time of the trial that she was still having some problems in her hands and those problems will come about when she's doing some light cleaning of the house or doing some work around the house.
4. Claimant went to her family doctor about her hand problems in 2008 and he referred her to Dr. Sandra Hoffmann, a rheumatologist. The doctor had diagnosed Claimant with bilateral carpal tunnel syndrome and bilateral cubital tunnel syndrome. The doctor recommended that Claimant undergo surgery, but Claimant could not undergo surgery because she was terminated from her employment with the Employer because of absenteeism and she also lost her health insurance through the Employer.
5. Employer had the live testimony of Russ Gaines, who is the head housekeeper and maintenance director for the Employer and was the Claimant's supervisor during her employment there. Mr. Gaines testified that the Claimant was employed from February 2007 through October 2008. He testified that the Employer's apartments were only about 55-70% occupied and that the Claimant, while working as a housekeeper, cleaned approximately eight to ten apartments per day. He testified that Claimant would have another housekeeper working with her cleaning the apartments. Mr. Gaines testified that the work the Claimant was doing could be physically demanding, but he was of the opinion that the workload that the Claimant was doing with her coemployees was not that physically demanding.

6. Claimant at the request of the Claimant's attorney was seen by Dr. Schlafly, a board certified orthopedic hand surgeon. Dr. Schlafly's records and opinion were very credible and he felt that the Claimant suffered from bilateral carpal tunnel syndrome and bilateral cubital tunnel syndrome and lateral epicondylitis of the right elbow. Dr. Schlafly testified that the Claimant's repetitive work as a housekeeper was the prevailing factor in causing her bilateral carpal tunnel syndrome and her bilateral cubital tunnel syndrome and right lateral epicondylitis. He also felt that she should have surgery.
  
7. Dr. Brown testified by deposition on behalf of the Employer. Dr. Brown is an orthopedic hand surgeon. Dr. Brown also testified that Claimant suffered from bilateral carpal tunnel syndrome and would require surgery. Dr. Brown did not feel that the Claimant's work duties for the Employer were the prevailing factor of the carpal tunnel syndrome. Dr. Brown felt that the prevailing cause of Claimant's carpal tunnel syndrome was her age and sex and degenerative arthritis. Dr. Brown also in his deposition felt that Claimant's work as a housekeeper for the Employer, although it was not the prevailing factor in his opinion, was a contributing factor to her development of bilateral carpal tunnel syndrome.

**RULINGS OF LAW**

1. Claimant's employment with the Employer was competent and substantial evidence of the causal relationship between her employment and her diagnosis of bilateral carpal tunnel syndrome. Claimant's work for the Employer as a housekeeper was the prevailing cause for her development of bilateral carpal tunnel syndrome.
  
2. Employer is ordered to provide necessary medical care to cure and relieve Claimant's symptoms of bilateral carpal tunnel syndrome and right lateral epicondylitis.

Made by: \_\_\_\_\_  
 CORNELIUS T. LANE  
*Administrative Law Judge*  
*Division of Workers' Compensation*