

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

Injury No.: 05-055801

Employee: Gracie Stevenson

Employer: Laclede Gas Company

Insurer: Self-Insured

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

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 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 § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated October 6, 2015, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Karla Ogrodnik Boresi, issued October 6, 2015, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 21st day of October 2016.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

John J. Larsen, Jr., Chairman

James G. Avery, Jr., Member

Curtis E. Chick, Jr., Member

Attest:

Secretary

AWARD

Employee:	Gracie Stevenson	Injury No.: 05-055801
Dependents:	N/A	Before the
Employer:	Laclede Gas	Division of Workers' Compensation
Additional Party	Second Injury Fund	Department of Labor and Industrial Relations Of Missouri
Insurer:	Self	Jefferson City, Missouri
Hearing Date:	June 25, 2015	Checked by: KOB

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? Yes.
4. Date of accident or onset of occupational disease: June 15, 2005
5. State location where accident occurred or occupational disease was contracted: St. Louis
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? N/A
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:
Claimant was digging at work and experienced symptoms of high blood pressure.
12. Did accident or occupational disease cause death? No
13. Part(s) of body injured by accident or occupational disease: N/A
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? \$4,030.14

Issued by DIVISION OF WORKERS' COMPENSATION

- 17. Value necessary medical aid not furnished by employer/insurer? N/A
- 18. Employee's average weekly wages: \$914.28
- 19. Weekly compensation rate: \$609.52 / \$354.05
- 20. Method wages computation: By agreement

COMPENSATION PAYABLE

21. Amount of compensation payable: None.

22. Second Injury Fund liability: No

TOTAL: \$ 0.00

23. Future requirements awarded: None.

Said payments to begin immediately 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 -- of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: B. Michael Korte

FINDINGS OF FACT and RULINGS OF LAW:

Employee:	Gracie Stevenson	Injury No.: 05-055801
Dependents:	N/A	Before the Division of Workers' Compensation
Employer:	Laclede Gas	Department of Labor and Industrial Relations Of Missouri
Additional Party	Second Injury Fund	
Insurer:	Self	Jefferson City, Missouri
Hearing Date:	June 25, 2015	Checked by: KOB

PRELIMINARIES

The matter of Gracie Stevenson (“Claimant”) proceeded to trial on June 25, 2015. Attorney B. Michael Korte represented Employee. Attorney Mark Anson represented Laclede Gas Company (“Employer”), which is self-insured. Assistant Attorney General Joye Hudson represented the Second Injury Fund. Three separate claims were tried concurrently: the instant claim (“2005 Case”), Injury No. 04-148423 (“2004 Case”), and Injury No. 06-078015 (“2006 Case”). Separate awards are issued in each Case. Claimant seeks to recover permanent total disability (“PTD”) compensation.

With respect to the 2005 Case, the parties stipulated Claimant was an employee of Employer subject to the Missouri Workers’ Compensation Act (“Act”) when, on or about June 15, 2005 in St. Louis City, she suffered an accident arising out of and in the course of employment. At the relevant time, Claimant earned an average weekly wage of \$914.28, with corresponding rates of compensation of \$609.52 for PTD and temporary total disability (“TTD”) benefits, and \$354.05 for permanent partial disability (“PPD”) benefits. Claimant provided proper notice and filed a timely claim. Employer paid \$4,030.14¹ in medical, but no TTD.

The issues to be determined are: 1) was work a substantial factor² in causing Claimant’s injury; 2) what is the nature and extent of Claimant’s permanent disability; and 3) what is the liability of the Second Injury Fund?

The exhibits were admitted for all three Cases, with Claimant’s exhibits marked with numerals 1 to 17 and Employer’s marked with letters A to E. The Second Injury Fund offered no additional exhibits. Rather than list all the exhibits in this Award, reference is made to the Award in the 2004 Case, Injury No. 04-148423, and the list of exhibits set forth therein is incorporated into this Award by reference.

¹ In a post-trial communication to the Court, with notice to opposing counsels, Employer provided the specific amounts of TTD and medical Employer paid under each Injury Number.

² Prior to the August 29, 2005 changes in the Workers' Compensation Law, an employee's work only had to be a “substantial factor” and not the “prevailing factor.” § 287.020.3(2)(a). The 2005 changes also required the Commission and the courts to construe the law “strictly” rather than liberally in favor of coverage the way it had been before the revisions. § 287.800.

FINDINGS OF FACT

Claimant is a 55 year old woman who worked for Employer primarily as a Gas Supply Control Laborer for over 20 years. She graduated from Soldan High School in 1980 and was Homecoming Queen. As a talented athlete, she had the opportunity to attend college, but her lifelong dyslexia prevented her from succeeding in school, being able to read or having any computer skills. She trained for the heavy work she performed and worked in the highly physical job of Gas Supply Control Laborer until the end of 2006. Away from work, she enjoyed many activities such as playing basket ball and softball, skating and bike riding.

Prior to 2004, Claimant had some injuries that did not cause lasting problems, such as right shoulder dislocations and a back strain. She had some complaints of neck pain beginning in 2000, which started with an altercation with the police and worsened with time. In mid-June 2004, Claimant had an accident that forms the basis of the 2004 Case, Injury No. 04-148423. As a result, Claimant had the treatment and suffered the disability detailed in the Award for the 2004 Case. She was also diagnosed with and was conservatively treated for carpal tunnel syndrome.

Claimant has a significant family history of hypertension. In April 2000, Claimant's primary care physician ("PCP") noted borderline hypertension and gave Claimant information on a low sodium diet and exercise, which helped control her blood pressure for several years. On March 11, 2005, the PCP records note a sitting blood pressure of 160/100, and the practitioner notes contain six or seven documented office visits with elevated blood pressure. Claimant received a prescription for blood pressure medication in March, but on May 2 she called the office indicating she lost the prescription and needed samples.

On or about June 15, 2005, Claimant was at work digging a hole when she turned and felt pain in her neck and shoulder. This is the event which forms the basis of this 2005 Case. Employer sent her to Concentra, where her blood pressure was 200/90. Regarding her neck, Concentra doctors diagnosed cervical strain, with the only positive finding being "mild tenderness to direct palpation of right anterior cervical region." After she was released from Concentra, Claimant presented to Christian Hospital, where the following history was recorded:

Back pain; pt complained of right sided neck pain that started 24 hours ago when she woke up yesterday am. Complains of numbness in right arm and hand. She does labor intensive work, digging, etc and pain worsened throughout the day. No direct injury to neck.

Her blood pressure was as high as 189/107. Claimant reported relief with medication and was discharged.

Her PCP's records of June 16 note Claimant developed right sided neck pain at work, had a blood pressure of 210/90, and complained of stress. Her home blood pressure readings had been "high normal." On June 20, 2005, in follow up for her chronic high blood pressure, Claimant's PCP notes indicate she is going better with the medication change and had no complications.

When she followed at Concentra on June 21, 2005, the diagnosis for the event was hypertension/stress. The Concentra note for that visit indicated:

She feels the pattern of symptoms is better with no pain; Pt. states ...after receiving medication for her blood pressure...her neck pain resolved completely. Pt states that she was told that her pain was most likely a stress reaction or related to HNT; Pt denies any radicular pain...is ready to be released to regular duty

Claimant indicated that she thought this event was related to her hypertension, and the pain she experienced dissipated when her blood pressure was brought under control. She returned to her job.

Later in 2005, Claimant started complaining of problems with her legs, and she ultimately underwent neck surgery as described in the Award in the 2004 Case.

ADDITIONAL FINDINGS OF FACT AND RULINGS OF LAW

Based on the substantial competent evidence and pursuant to the Missouri Workers' Compensation Act (the "Act"), I make the following findings of fact and rulings of law, and find this 2005 Case to be non compensable:

Claimant has failed to establish a compensable work accident in the 2005 Case. An injury is compensable if "work was a substantial factor in the cause of the resulting medical condition or disability." *See* § 287.020.2, RSMo 2000. For an injury to be compensable, the evidence must establish a causal connection between the accident and the injury. *Clark v. FAG Bearings Corp.*, 134 S.W.3d 730, 734 (Mo. Ct. App. 2004). Claimant has produced no such evidence. Dr. Poetz makes no diagnosis of injury or disability associated with the June 2005 event. Claimant testified the complaints that exhibited themselves on and around June 15, 2005 were related to and caused by her high blood pressure, and that testimony is corroborated by the medical records. There is no causal connection between the Claimant's work on June 15, 2005 and any injury. In other words, Claimant's work was not a substantial factor in any injury, condition of ill being or disability.

Clamant was at work when she experienced symptoms she now knows in hindsight to be related to her high blood pressure, not her neck or any work-related activities. I find the 2005 case is non-compensable because there is no injury and no need for further compensation. *See, i.e., Sanderson v. Porta-Fab Corp.*, 989 S.W.2d 599, 604 (Mo. Ct. App. 1999). The 2005 Case is denied. Neither Employer nor the Second Injury Fund has any liability.

Made by: _____
KARLA OGRODNIK BORESI
Administrative Law Judge
Division of Workers' Compensation