

TEMPORARY AWARD ALLOWING COMPENSATION

(Modifying Award of December 7, 2010)

Injury No.: 06-104584

Employee: David Taylor
Employer: Contract Freighters, Inc.
Insurer: Con-way Truckload, Inc.
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund

History

On July 25, 2008, this matter was called for hearing upon employee's request for a hardship hearing. Employee sought a temporary award of medical treatment and temporary total disability compensation. On October 1, 2008, the administrative law judge issued an award denying compensation. Employee filed an Application for Review with the Labor and Industrial Relations Commission (Commission).

On June 16, 2009, the Commission issued its final award denying compensation. Employee appealed to the Missouri Court of Appeals for the Southern District. On April 8, 2010, the Court of Appeals issued an opinion reversing the June 16, 2009, award and decision of the Commission. *Taylor v. Contract Freighters, Inc.*, 315 S.W.3d 379 (Mo. App. 2010) (SD29945). By mandate dated September 2, 2010, the Court reversed the Commission's June 16, 2009, award and remanded this matter to the Commission for a hearing not inconsistent with the opinion of the Court.

Pursuant to the Court's mandate, we issued a temporary award on December 7, 2010. Employee alleges we used the wrong temporary total disability rate in our December 7 award. We agree. We used the rate provided by the administrative law judge on line 19 of his award (10/1/2008 ALJ Award, p. 2).

Pursuant to § 287.510 RSMo, we modify our December 7, 2010, temporary award to correct the temporary total disability rate to \$666.41, as stipulated by the parties. In all other respects, our December 7, 2010, temporary award remains unchanged.

This award is only temporary or partial. It 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.

Given at Jefferson City, State of Missouri, this 16th day of March 2011.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary