

FINAL AWARD ALLOWING COMPENSATION
(Pursuant to the Mandate of the Missouri Court of Appeals, Eastern District)

Injury No.: 00-041020

Employee: Floyd L. Wilcut, deceased

Dependent: Sharon Wilcut, widow

Employer: Innovating Warehousing

Insurer: American Manufacturers Mutual Insurance Company

Date of Accident: April 13, 2000

On January 15, 2008, the Missouri Court of Appeals for the Eastern District issued an opinion reversing the June 7, 2006, Final Award of the Labor and Industrial Relations Commission (Commission) in the above-referenced case. By mandate issued April 1, 2008, the Court remanded this matter to the Commission for further proceedings in accordance with the Court's opinion delivered January 15, 2008. *Wilcut v. Innovative Warehousing*, ED88247, 2007 Mo. App. LEXIS 915 (Mo.App E.D. 2007).

Pursuant to the Court's opinion and mandate, we issue this new award reversing the award and decision of the Commission dated June 7, 2006.

Discussion

Section 287.140.5 RSMo, provides:

No compensation shall be payable for the death or disability of an employee, if and insofar as the death or disability may be caused, continued or aggravated by any unreasonable refusal to submit to any medical or surgical treatment or operation, the risk of which is, in the opinion of the division or the commission, inconsiderable in view of the seriousness of the injury.

The Court found that the statutory scheme dictates that religious beliefs be liberally construed, and found that employee invoked his strong and sincerely held religious beliefs against a transfusion. This refusal was not unreasonable in light of employee's beliefs and accordingly we find that death benefits are owed from the date that the benefits were terminated.

Award

Pursuant to the Court's mandate, we direct employer/insurer to pay Sharon Wilcut, widow and sole dependent of employee, death benefits in the weekly amount of \$292.04, commencing May 1, 2002, and continuing until Sharon Wilcut loses her status as a dependent under §287.240.

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 2nd day of May 2008.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary