OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI ex rel.)	Nos. ED98703 & ED98715
ANATOLY SIR, Complainant/Appellant/)	Appeal from the Circuit Court
Cross-Respondent,)	of the City of St. Louis
v.)	Honorable Bryan L. Hettenbach
GATEWAY TAXI MANAGEMENT COMPANY)	Date: April 16, 2013
d/b/a LACLEDE CAB COMPANY,)	
Respondent/Respondent/Cross-Appellant,)	
MISSOURI COMMISSION ON HUMAN)	
RIGHTS, Additional Party/Respondent.)	
GATEWAY TAXI MANAGEMENT COMPANY d/b/a LACLEDE CAB COMPANY, Respondent/Respondent/Cross-Appellant, MISSOURI COMMISSION ON HUMAN))))	•

Respondent taxicab company appeals, and complainant taxicab driver applicant cross-appeals, from the judgment of the circuit court entered on judicial review of the Decision and Order of the Missouri Commission on Human Rights (the Commission). The Attorney General had filed an amended complaint that alleged that respondent had discriminated against complainant in violation of the Missouri Human Rights Act (MHRA), section 213.055 RSMo (2000), when it refused to consider complainant's application to become a taxicab driver because he had suffered a stroke, even though it was a job he was capable of performing. The Commission concluded that respondent was an employer under the MHRA; that complainant had a disability that did not interfere with performing the job of a taxicab driver; that the disability was a contributing factor in respondent's refusal to hire complainant; and that complainant could perform the job of a taxicab driver. Among other relief, the Commission ordered respondent to pay complainant damages in the amounts of \$50,000 for humiliation and emotional distress and \$35,000 for deprivation of his civil rights.

AFFIRMED.

Division Two Holds:

- 1. Respondent's taxicab drivers were employees and not independent contractors under Missouri law applicable in MHRA cases.
- 2. The finding that complainant was disabled as defined by section 213.010(4) of the MHRA was supported by competent and substantial evidence of the physical limitations resulting from complainant's stroke, and evidence that complainant was restricted in performing a job or a class of jobs was not required.
- 3. The actual damage awards were supported by competent and substantial evidence.
- 4. The Commission did not err in failing to award back pay when back pay was not requested.
- 5. The MHRA does not authorize the Commission to award punitive damages.

6. Complainant's point challenging an action of the circuit court is unreviewable because it is not addressed to an error of the Commission.

Opinion by: Kathianne Knaup Crane, P.J.

Mary K. Hoff, J. and Lisa Van Amburg, J., concur.

Attorneys for Appellant: Kurt Cummiskey and Eli Karsh

Attorneys for Respondent Gateway Taxi: Brian E. McGovern and Bryan M. Kaemmerer

Attorneys for Additional Party: Attorney General Chris Koster and Assistant Attorney

General Vanessa Howard Ellis

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.