

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DAVID WRIGHT,) ED102892
)
Respondent,) Appeal from the Labor and
) Industrial Relations Commission
v.)
) 11-110863
TREASURER OF MISSOURI AS) Labor and Industrial
CUSTODIAN OF SECOND INJURY) Relations Commission
FUND,)
)
Appellant.) Filed: November 10, 2015

The Treasurer of the State of Missouri as Custodian of the Second Injury Fund (SIF) appeals the final award of the Labor and Industrial Relations Commission (Commission) awarding permanent total disability benefits to David Wright (Claimant). The SIF argues that the Commission erred in concluding Claimant met his burden to show that his injury arose out of and in the course of his employment, as defined by Section 287.020.3(2), RSMo. (Supp. 2005).

AFFIRMED.

Division Two Holds: Section 287.020.10, RSMo. (Supp. 2005) did not abrogate the personal comfort doctrine, but rather cases holding that an employee could recover for injuries sustained at work caused by risk factors to which the employee was equally exposed outside of work. Thus, there is no bar to recovery *per se* simply because an employee is injured during his or her lunch break. Here, the Commission did not err in concluding that Claimant’s injury was compensable because the risk factor for his injury—the collapse of a chair owned by his employer and in his employer’s break room—is not one Claimant was equally exposed to outside of work. His injury did not result from the act of sitting, but from the collapse of that particular chair. The Commission did not err in concluding Claimant’s injury had a causal connection to his work activity. Therefore, the Commission did not err in awarding benefits to Claimant.

Opinion by: Gary M. Gaertner, Jr., J.
Philip M. Hess, P.J., and Angela T. Quigless, J., concur.

Attorneys for Appellant: Chris Koster, Kevin A. Nelson
Attorney for Respondent: James G. Krispin

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