

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

ERIC BUHLINGER, Respondent,) No. ED97864
)
vs.)
) Appeal from the Labor and Industrial
) Relations Commission
TREASURER OF MISSOURI AS)
CUSTODIAN OF SECOND INJURY FUND,)
Appellant.) Filed: October 2, 2012

The Second Injury Fund (Fund) appeals from a decision of the Labor and Industrial Relations Commission (Commission) finding that the Fund was liable to Eric Buhlinger (Claimant) for 16.76 weeks of permanent partial disability (PPD) enhancement. The Fund contends the Commission erred by including Claimant's primary disabilities of five percent to his right elbow and five percent to his body as a whole in calculating Fund liability because, considered individually, these disabilities fall below the statutory thresholds set forth in Section 287.220.1.

TRANSFERRED to SUPREME COURT.

Division Four Holds: We reverse the Commission's award finding the Fund liable for PPD enhancement based on primary disabilities that do not individually meet the statutory thresholds. However, because of the general interest and importance of the issues, we transfer to the Missouri Supreme Court pursuant to Rule 83.02.

Opinion by: Patricia L. Cohen, J.
Lawrence E. Mooney, P.J., and Kurt S. Odenwald, J., concur.

Attorney for Appellant: Sung Hwan You

Attorney for Respondent: Dean L. Christianson

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.