

MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

FRED HOVEN,)	No. ED98842
)	
Appellant,)	Appeal from the Labor and
)	Industrial Relations Commission
vs.)	
)	
TREASURER OF THE STATE OF)	
MISSOURI, CUSTODIAN OF THE)	
SECOND INJURY FUND,)	
)	
Respondent.)	FILED: November 26, 2013

Fred Hoven (“Claimant”) appeals the awards of the Labor and Industrial Relations Commission (“Commission”) finding the Second Injury Fund (“SIF”) not liable for permanent partial disability (“PPD”) benefits based on his December 2004 injury. The SIF cross-appeals the award of the Commission granting PPD benefits to Claimant based on his September 2007 injury.

AFFIRMED.

DIVISION ONE HOLDS: (1) The SIF is neither bound nor collaterally estopped by a settlement agreement to which it is not a party. There was substantial, competent evidence to support the Commission’s award that found the SIF not liable for PPD benefits based on Claimant’s December 2004 injury. (2) The Commission did not err in finding that Claimant was not entitled to an award of benefits against the SIF where there was substantial, competent evidence that he had not reached maximum medical improvement from his December 2004 injury. (3) The Commission properly applied section 287.220.1 in determining the amount of benefits for which the SIF is liable by including the PPD from all of the pre-existing injuries and conditions of Claimant. (4) There was substantial, competent evidence to support the Commission’s award of benefits to Claimant for which the SIF is liable where the Commission found that Claimant’s disabilities were a hindrance to finding re-employment and there was evidence of an actual, measurable disability at the time of the work injury.

Opinion by: Clifford H. Ahrens, Presiding Judge Sherri B. Sullivan, J., and Glenn A. Norton, J., concur.

Attorney for Appellant: Dean Lee Christianson

Attorney for Respondent: Da-Neil Cunningham

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IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
SHOULD NOT BE QUOTED OR CITED.**