

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

RICHARD JONES, APPELLANT,

v.

GST STEEL CO., RESPONDENT.

WD69299

January 6, 2009

Appeal From:

LABOR AND INDUSTRIAL RELATIONS

Appellate Judges:

Division Two: James M. Smart, Jr., P.J., Lisa White Hardwick and James E. Welsh, JJ.

Attorneys:

David Slocum, Kansas City, MO, **for appellant.**

L. Anne Wickliffe, Kansas City, MO, **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

RICHARD JONES, APPELLANT

v.

GST STEEL CO., RESPONDENT

WD69299

LABOR AND INDUSTRIAL RELATIONS

Before Division Two Judges: James M. Smart, Jr., P.J., Lisa White Hardwick and James E. Welsh, JJ.

Richard Jones made a claim for workers' compensation benefits for hearing loss resulting from his employment. He filed his claim after his employer filed bankruptcy. Jones failed to file a claim with the bankruptcy court for his potential, but at that time unfiled, workers' compensation claim. The administrative law judge determined Jones's disability and awarded benefits accordingly. The Labor and Industrial Relations Commission denied workers' compensation benefits because Jones failed to file a notice of claim in his employer's bankruptcy case. Jones appeals.

REVERSED AND REMANDED WITH INSTRUCTIONS.

Division Two holds:

Jones's claim for workers' compensation benefits was not barred by his failure to file a notice of claim in his employer's bankruptcy case. He was prevented pursuant to section 287.197.7 from filing a claim for six months after his employment terminated. He was not informed by the bankruptcy court he could file a claim after the close of the claim period, although the Guaranty Corp. was apparently aware of it. In any event, the Guaranty Corporation could have later filed a claim on Jones's behalf but failed to do so. Section 287.865.5 was never intended by the General Assembly to be so construed as to bar a claim under these circumstances.

Opinion by James M. Smart, Jr., Judge

January 6, 2009

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