

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

TINA BALL-SAWYERS,

RESPONDENT,

v.

BLUE SPRINGS SCHOOL DISTRICT,

APPELLANT,

**TREASURER OF THE STATE OF MISSOURI-CUSTODIAN OF THE SECOND
INJURY FUND,**

RESPONDENT.

DOCKET NUMBER WD69624

DATE: MAY 5, 2009

Appeal From:

LABOR AND INDUSTRIAL RELATIONS COMMISSION

Appellate Judges:

DIVISION ONE: RONALD R. HOLLIGER, Presiding Judge, HAROLD L.
LOWENSTEIN and LISA WHITE HARDWICK, Judges

Attorneys:

Thomas R. Hill, Esq., Kansas City, MO, **for appellant.**

William C. Spooner, Esq. and Kimberly Fournier, Esq. Kansas City, MO, **for
respondent.**

**MISSOURI APPELLATE COURT OPINION
SUMMARY**

COURT OF APPEALS -- WESTERN DISTRICT

TINA BALL-SAWYERS,

RESPONDENT,

v.

BLUE SPRINGS SCHOOL DISTRICT,

APPELLANT;

**TREASURER OF THE STATE OF MISSOURI-CUSTODIAN OF THE SECOND
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WD69624

Labor and Industrial Relations Commission

Before Division One Judges: RONALD R. HOLLIGER, Presiding Judge,
HAROLD L. LOWENSTEIN and LISA WHITE HARDWICK, Judges

This case arises from a decision of the Labor and Industrial Relations Commission awarding worker's compensation benefits to Tina Ball-Sawyers and imposing a penalty of \$236,189.90 against the Blue Springs School District Hartford Underwriters Insurance for failing to comply with a temporary order requiring payment of Ms. Sawyer's medical expenses. The District and Hartford appeal, contending the benefit award is against the weight of the evidence and the Commission erred in determining the penalty.

AFFIRMED IN PART AND REVERSED IN PART.

Division One holds: The testimony of three medical experts and a vocational expert supports the Commission's finding that Ms. Sawyers was permanently and totally disabled as a result of her work activities as bus driver. Accordingly, the benefit award is affirmed. The Commission erred in assessing a double penalty on the entire amount of the temporary award. Pursuant to Section 287.510, RSMo Cum. Supp. 2008, the double penalty can only be applied to the unpaid portion of the temporary award. The penalty is reversed, and the District and Hartford are ordered to pay a penalty in the amount of \$176,127.90.

Opinion by: Lisa White Hardwick, Judge

May 5, 2009

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