MISSOURI COURT OF APPEALS
WESTERN DISTRICT

THOMAS DUBUC

RESPONDENT,

v.

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

APPELLANT.

DOCKET NUMBER WD82809

DATE: March 3, 2020

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Two: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge and Gary D. Witt, Judge

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Attorneys:

Matthew B. Uhrig, Ashland, MO, for respondent.

Erica E. Schiff, Jefferson City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

THOMAS DUBUC, RESPONDENT,
v.
TREASURER OF THE STATE OF MISSOURI - CUSTODIAN OF THE SECOND INJURY FUND, APPELLANT.

WD82809 Labor and Industrial Relations Commission

Before Division Two Judges: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge, and Gary D. Witt, Judge

The Treasurer of the State of Missouri in its capacity as the custodian for the Second Injury Fund appeals from the Labor and Industrial Relations Commission's determination that the Second Injury Fund is liable to Thomas Dubuc for permanent total disability benefits. The Second Injury Fund argues that the Commission erroneously relied on section 287.220.2, RSMo, in making the award when it should have relied on section 287.220.3, RSMo.

REVERSED AND REMANDED.

Division Two holds:

The General Assembly amended section 287.220, effective January 1, 2014. Subsequent to this amendment, section 287.220.2 applies to claims for permanent partial and total disability where all involved injuries or conditions (workplace and pre-existing) occurred prior to January 1, 2014, and section 287.220.3 applies to claims for permanent partial and total disability where the workplace injury occurred after January 1, 2014, regardless when the pre-existing injuries or conditions occurred. Because Dubuc's permanent total disability claim arose out of a workplace injury that occurred after January 1, 2014, the Commission committed legal error in applying the wrong standard to determine the Second Injury Fund's liability to Dubuc.

Opinion by: Cynthia L. Martin, Judge March 3, 2020

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