MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DONTARIUS J. MARKS

APPELLANT,

v.

MISSOURI DEPARTMENT OF CORRECTIONS

RESPONDENT.

DOCKET NUMBER WD82956

DATE: April 14, 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:

Elizabeth W. Skinner, Jefferson City, MO, for appellant.

Kimberley Cox Fournier, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DONTARIUS J. MARKS, APPELLANT,
v.
MISSOURI DEPARTMENT OF CORRECTIONS, RESPONDENT.

WD82956 Labor and Industrial Relations Commission

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

Dontarius Marks appeals from the Labor and Industrial Relations Commission's final award denying his claim for workers' compensation benefits. Marks asserts the Commission's denial of benefits was erroneous because: (1) as a matter of law, Marks's injury arose out of and in the course of employment; (2) as a matter of law, Marks was not equally exposed to the risk source of stairs in his non-employment life; and (3) there was not sufficient, competent and substantial evidence to support the finding that Marks was only exposed to the risk source of walking down the stairs at the time of the injury.

AFFIRMED.

Division Two holds:

(1) The Commission did not err in finding that Marks's injury did not arise out of and in the course of employment because Marks failed to offer credible evidence that would support a conclusion that his work activity increased the risk of injury beyond the risk Marks was exposed to while descending stairs in his normal nonemployment life.

(2) The Commission did not err in finding that Marks was not equally exposed to the risk source of stairs in his non-employment life because there is no credible evidence to conclude that he faced an increased risk of injury descending stairs while at work.

(3) The Commission did not err in finding that Marks was only exposed to the risk source of walking down the stairs because sufficient, competent and substantial evidence supported the finding.

Opinion by: Cynthia L. Martin, Judge April 14, 2020

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