OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

ESTATE OF DALE NEWMAN BY TRACEY EATHERTON, Appellant, v. CITY OF LEADWOOD, MISSOURI, AND DIVISION OF WORKERS COMPENSATION AS ADMINISTRATOR OF THE LINE OF DUTY COMPENSATION FUND, Respondents.	)	No. ED107986 Appeal from the Labor and Industrial Relations Commission Injury No: LoD2014-04 Filed: August 18, 2020

The Estate of Dale Newman (Estate) appeals the award of the Labor and Industrial Relations Commission (Commission) denying compensation from the Line of Duty Compensation Fund (LDC Fund), Section 287.234.10. The Estate argues the Commission erroneously failed to apply an amended definition of "killed in the line of duty" to its claim. Additionally, the Estate argues that because Newman, as police chief of the City of Leadwood, was always on call, the Commission erred in concluding that he was not "in the active performance of his duties" as police chief, under Section 287.234.2(5), when he suffered a fatal heart attack while loading delivery trucks at his second job with United Postal Service (UPS).

AFFIRMED.

Division Four Holds: The 2014 amendments to the LDC Act, which became effective the day after Chief Newman's death, are substantive in nature, and therefore should not be applied retrospectively. Regardless, both the prior and amended versions of the LDC Act require that the event causing Chief Newman's death occur while he was engaged "in the active performance of his duties" as police chief. Loading delivery trucks for UPS does not constitute such activity, thus, the Estate is not entitled to benefits from the LDC Fund.

Opinion by: Gary M. Gaertner, Jr., J.
James M. Dowd, P.J., and Robin Ransom, J., concur.

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