In the Missouri Court of Appeals
Eastern District

DIVISION FOUR

JOHN HAGER,	)	No. ED108950
	)	
Appellant,	)	Appeal from the Labor and
	)	Industrial Relations Commission
vs.	)	
	)	
TREASURER OF MISSOURI AS	)	
CUSTODIAN OF THE SECOND	)	
INJURY FUND,	)	
	)	
Respondent.	)	FILED: November 24, 2020

Appellant John Hager appeals an order of the Labor and Industrial Relations Commission (the "Commission") affirming the dismissal of his claim against the Second Injury Fund. On appeal, Hager asserts (1) the Commission's decision "was predicated on the incorrect requirement that an application for review . . . must plead a prima facie case for setting aside the order of dismissal," (2) the decision was not supported by sufficient competent evidence, and (3) the decision was based on a case that had been overruled and because Missouri law disfavors dismissals for failure to prosecute and requires dismissals to be decided on a case-by-case basis.

AFFIRMED.

DIVISION FOUR HOLDS: The Commission did not err in affirming the dismissal of Hager's claim because (1) his application for review failed to make a prima facie claim of good cause to set aside the dismissal, (2) the Commission's decision was supported by sufficient substantial and competent evidence, and (3) the fact that the Commission's order referenced a case that had been overruled did not warrant reversal, and the Commission properly reviewed his application for review.

Opinion by: Michael E. Gardner, J.
Gary M. Gaertner, Jr., P.J., and Philip M. Hess, J., concur.

Attorney for Appellant: Edward A. Gilkerson
Attorney for Respondent: Barbara Toepke

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.