

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

SAMUEL MARCIANTE,)	No. ED102994
)	
Appellant,)	Appeal from the Labor and
vs.)	Industrial Relations Commission
)	
THE TREASURER OF MISSOURI AS)	
CUSTODIAN OF THE SECOND)	
INJURY FUND,)	
)	
Respondent.)	FILED: December 8, 2015

The claimant, Samuel Marciante, appeals the decision of the Labor and Industrial Relations Commission awarding him permanent partial-disability benefits as the result of work-related injuries he sustained in 2009. The claimant contends that he should have received an award for permanent total-disability benefits because he is permanently and totally disabled as the result of combined disabilities from his 2009 injury and pre-existing disabilities. The Second Injury Fund has filed a motion to dismiss, contending that the claimant’s notice of appeal is untimely.

APPEAL DISMISSED.

DIVISION THREE HOLDS: The Commission rendered its final award on April 1, 2015. Under section 287.495.1 RSMo. (2000), the notice of appeal was due within 30 days of the date of the final award of the Commission, on or before May 1, 2015. Because the envelope containing the notice of appeal actually received by the Commission bore a postmark of May 14, 2015, the claimant’s notice of appeal was not filed until May 14, 2015 and so was untimely. No provision exists for filing a late notice of appeal while section 287.800 RSMo. (Supp. 2013) requires us to “construe the provisions of this chapter strictly.” Thus, we dismiss the appeal.

OPINION BY: Lawrence E. Mooney, J. Robert M. Clayton III, P.J., and James M. Dowd, J., concur..

Attorney for Appellant: Edward T. Liese

Attorney for Respondent: Adam T. Sandberg

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.