

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

LARRY ABT, Appellant,) No. ED98282
)
vs.) Appeal from the Labor and Industrial
) Relations Commission
MISSISSIPPI LIME COMPANY and)
TREASURER OF MISSOURI AS)
CUSTODIAN OF THE SECOND INJURY)
FUND, Respondents.) Filed: December 11, 2012

Larry Abt (Claimant) appeals from the final award of the Labor and Industrial Relations Commission (Commission) denying him permanent total disability benefits from Mississippi Lime Company (Employer) and the Second Injury Fund (Fund), awarding him permanent partial disability benefits from Employer and the Fund, and ordering Employer to reimburse Claimant for certain medical expenses. Claimant asserts that the Commission erred in: (1) denying him reimbursement of his 2005 and 2006 medical expenses; (2) rejecting the 2007 and 2010 reports of Dr. Robert Poetz; (3) rejecting the 2007 report of Wilbur Swearingin; and (4) finding that Claimant's permanent total disability resulted solely from a subsequent deterioration of his preexisting conditions. We affirm in part, reverse in part, and remand.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

Division Four Holds: We affirm the Commission's findings as to Dr. Poetz's 2007 opinion and Mr. Swearingin's 2007 opinion. We reverse the Commission's determinations that: (1) Dr. Poetz's 2010 report did not consider Claimant's 2005 medical history; (2) subsequent deterioration of the preexisting disabilities solely accounted for Claimant's permanent total disability; and (3) Claimant was not entitled to reimbursement of the 2005 and 2006 medical expenses. We remand for a reconsideration of the award in light of this opinion.

Opinion by: Patricia L. Cohen, J.
Lawrence E. Mooney, P.J., and Kurt S. Odenwald, J., concur.

Attorney for Appellant: Robert J. Lenze

Attorney for Respondents: Matthew M. Mocherman (Mississippi Lime Company)
Gregg N. Johnson (Second Injury Fund)

**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.**