

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

RONALD CLARK, RESPONDENT,

v.

HARTS AUTO REPAIR, APPELLANT.

DOCKET NUMBER WD69767

DATE: January 20, 2009

Appeal From:
LABOR AND INDUSTRIAL RELATIONS

Appellate Judges:
Joseph P. Dandurand, P.J., Harold L. Lowenstein and James M. Smart, JJ.

Attorneys:
Thomas R. Hill, Kansas City, MO., **for appellant.**

James E. Martin, Overland Park, KS., **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS – WESTERN DISTRICT

RONALD CLARK,

RESPONDENT,

v.

HARTS AUTO REPAIR,

APPELLANT.

WD69767

Labor and Industrial Relations Commission

Before Division Two Judges: Joseph P. Dandurand, P.J., Harold L. Lowenstein and James M. Smart, JJ.

Ronald S. Clark worked for Harts Auto Repair as an auto body and engine transmission repair technician. While at work on May 22, 2001, he was injured after he fell from a ladder. He required a total of nine surgeries and he experienced problems with swelling, infection, pain, headaches, and depression.

Clark filed a claim for compensation with the Missouri Division of Workers' Compensation. Following a hearing, the Administrative Law Judge ("ALJ") awarded benefits, finding that Clark was rendered permanently and totally disabled by the accident at work. The award included compensation for future medical care and assessed interest on any past due compensation. In further awarding Clark's attorneys' fees and assessing a portion of the costs of the proceedings against Harts Auto, the ALJ found that Harts Auto defended the case without reasonable ground. The ALJ determined that although Harts Auto admitted accident and liability (disputing only the extent of disability), it spurned all efforts to resolve the matter by its refusal to even listen to settlement demands, make any settlement offer, or engage in mediation. The Labor and Industrial Relations Commission ("Commission") affirmed. Harts Auto Repair and its insurer appeal.

AFFIRMED.

Division Two Holds:

- (1) Where the ALJ explicitly considered the testimony of all examining and treating doctors including all contrary opinions, before determining that the most credible evidence established that Clark was rendered permanently and totally disabled by work injuries, the Commission's award of workers' compensation disability benefits was supported by competent and substantial evidence in the record.
- (2) Where Harts Auto admitted accident and liability, but stymied all efforts to settle the case by refusing to provide *any* settlement authority whatsoever, competent and substantial evidence in the record supported the

Commission's assessment of a portion of the costs and attorneys' fees, pursuant to section 287.560, RSMo 2000, against Harts Auto because it defended the case without reasonable ground, as an exception to the general rule that costs of Missouri Division of Workers' Compensation proceedings are paid out of the state treasury fund.

Opinion by: Joseph P. Dandurand, Judge

January 20, 2009

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.