

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

CHARITY STRICKER

Respondent

v.

CHILDREN'S MERCY HOSPITAL

Appellant

DOCKET NUMBER **WD70697**

DATE: December 1, 2009

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Three: Thomas H. Newton, C.J., Mark D. Pfeiffer, and Karen King Mitchell, JJ.

Attorneys:

Peter J. Chung, Kansas City, MO

Counsel for Appellant

Attorneys:

Ross S. Myers, Lee's Summit, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

CHARITY STRICKER, Respondent, v.
CHILDREN'S MERCY HOSPITAL, Appellant

WD70697

Labor and Industrial Relations Commission

Before Division Three Judges: Thomas H. Newton, C.J., Mark D. Pfeiffer, and Karen King Mitchell, JJ.

Charity Stricker, an employee of Children's Mercy Hospital, sustained an injury after tripping and falling in Hospital's parking lot. Stricker sought workers' compensation benefits. After determining that Stricker's injury was caused by her shoes, that those shoes were work related, and that she would not have been equally exposed to the risk of the injury in her normal non-employment life, the Labor and Industrial Relations Commission (Commission) awarded Stricker benefits for her injury. Hospital appeals.

AFFIRMED.

Division Three Holds:

Hospital argues that the Commission erred in compensating Stricker because the Commission relied on abrogated case law to find she sustained a compensable injury and because her injury was caused by an idiopathic condition. We may interfere with the Commission's decision if it acted without or in excess of its power; the award was procured by fraud; its findings do not support the award; or there was not sufficient competent evidence in the record to substantiate the award.

An employer is required to compensate an employee for injuries from an accident arising out of and in the course of employment. In 2005, the legislature changed what constitutes a compensable injury. Under the current law, an injury arises out of and in the course of employment when it is reasonably apparent from the circumstances that the accident is the prevailing factor in causing the injury and when the injury does not result from a "hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life." The 2005 amendments also abrogated all workers' compensation cases that interpreted the terms "injury," "accident," "arising out of," and "in the course of," and changed the interpretation of those terms from a liberal construction to a strict construction.

Hospital contends that the Commission's decision should be reversed because according to recent case law, only abrogated case law supports a finding that Stricker sustained a compensable injury. However, the facts at issue are distinguishable from the cited cases. Those cases involved claimants who sustained injuries because of accidents caused by internal conditions whereas Stricker's accident was caused by an external condition—her work shoes. Although Hospital disputes that the shoes were a condition of employment, competent evidence supports the Commission's finding that the shoes were work shoes. Because we accept the Commission's finding that the work shoes caused the accident, resulting in Stricker's injury, we

reject Hospital's contention that an idiopathic condition caused the injury. We also accept the Commission's finding that Stricker would not be equally exposed to the risk associated with wearing the work shoes based on Stricker's testimony that she did not wear them in her normal non-employment life.

Therefore, we affirm the decision.

Opinion by: Thomas H. Newton, Judge

December 1, 2009

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