

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

ROBERT DUNGAN,

Appellant,

v.

FUQUA HOMES, INC.,

Respondent.

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**DOCKET NUMBER WD77068**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** May 27, 2014

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**APPEAL FROM**

The Labor and Industrial Relations Commission

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**JUDGES**

Division One: Ellis, P.J., and Mitchell and Gabbert, JJ.

CONCURRING.

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**ATTORNEYS**

Tom Pirmantgen  
Jefferson City, MO

Attorney for Appellant,

Jason M. Lloyd and Jeffrey D. Slattery  
Kansas City, MO

Attorneys for Respondent.

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

**ROBERT DUNGAN,** )  
 )  
 ) **Appellant,** )  
**v.** ) **OPINION FILED:**  
 ) **May 27, 2014**  
**FUQUA HOMES, INC.,** )  
 )  
 ) **Respondent.** )

**WD77068** **Labor and Industrial Relations Commission**

**Before Division One Judges:** Joseph M. Ellis, Presiding Judge, and Karen King Mitchell and Anthony Rex Gabbert, Judges

Robert Dungan appeals from a final award entered by the Labor and Industrial Relations Commission in a workers' compensation case. In his sole point on appeal, Dungan contends that the Commission erred in concluding that his claim for benefits was not timely filed under section 287.430 RSMo. Dungan contends that his claim was timely because it was filed within two years of the date of the last medical payment made under Chapter 287 in that his personal insurance company made payment within two years of the date of the injury, and his claim for compensation was filed less than a year after that payment.

**AFFIRMED.**

**Division One holds:**

We hold that payments made by Dungan or his insurer do not constitute payments made "under this chapter" within the meaning of section 287.430 because neither Dungan nor his insurer were obligated to make such payments under the Workers' Compensation Act. Thus, any payments made by Dungan or his insurer do not toll the statute of limitations set forth in section 287.430. Because the last payment made by Fuqua Homes' insurer was on February 19, 2009, and Dungan did not file his claim for compensation until October 31, 2011, more than two years after the last payment was made under Chapter 287 on account of the injury, Dungan's claim is not timely, and the Commission did not err in issuing its Final Award Denying Compensation. The Final Award of the Labor and Industrial Relations Commission is affirmed.

**Opinion by: Karen King Mitchell, Judge** **May 27, 2014**

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