

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**MARYVILLE R-II SCHOOL DISTRICT,
APPELLANT
vs.**

**DANIEL PAYTON AND TREASURER OF THE STATE OF MISSOURI – CUSTODIAN
OF THE SECOND INJURY FUND,
RESPONDENTS**

DOCKET NUMBER WD80070

DATE: APRIL 11, 2017

Appeal from:

The Labor and Industrial Relations Commission

Appellate Judges:

Division Three: Karen King Mitchell, Presiding Judge, Victor C. Howard, Judge and Gary D. Witt, Judge

Attorneys:

Clinton D. Collier, for Appellant

John E. McKay, for Respondent Daniel Payton

Maureen T. Shine, for Respondent 2nd Injury Fund

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

MARYVILLE R-11 SCHOOL DISTRICT, APPELLANT

v.

**DANIEL PAYTON AND TREASURER OF THE STATE OF MISSOURI – CUSTODIAN
OF THE SECOND INJURY FUND, RESPONDENTS**

WD8007

Labor and Industrial Relations

Before Division Three: Karen King Mitchell, Presiding Judge, Victor C. Howard, Judge and Gary D. Witt, Judge

The Maryville R-II School District appeals the judgment of the Labor and Industrial Relations Commission. It complains on appeal that the Commission's decision is against the weight of the evidence. It also says the Second Injury Fund is responsible for some portion of the compensation. The judgment is affirmed.

AFFIRMED.

Division Three holds:

(1) Where the Administrative Law Judge found the employee's witness credible and the employer's witness not credible, and those findings were supported by competent and substantial evidence and were not against the weight of the evidence, any argument that the judge should have believed the employer's witness instead is without merit.

(2) Where the Administrative Law Judge found the employee's witness credible and found that the last injury rendered the employee permanently and totally disabled, and those findings were supported by competent and substantial evidence and were not against the weight of the evidence, any argument that the judge should have believed the employer's witness instead is without merit.

Opinion by: Victor C. Howard, Judge

Date: April 11, 2017

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