

THE STATE EX REL. MONTGOMERY, APPELLANT, v. INDUSTRIAL COMMISSION OF  
OHIO, APPELLEE, ET AL.

[Cite as *State ex rel. Montgomery v. Indus. Comm.* (1998), \_\_\_ Ohio St.3d \_\_\_\_.]

*Workers' compensation — Court of appeals' judgment affirmed.*

(No. 97-2637 — Submitted August 19, 1998 — Decided October 28, 1998.)

APPEAL from the Court of Appeals for Franklin County, No. 96APD12-1749.

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*Shapiro, Kendis & Associates Co., L.P.A., and Rachel B. Jaffy, for  
appellant.*

*Betty D. Montgomery, Attorney General, and Jonathan A. Good, Assistant  
Attorney General, for appellee.*

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The judgment of the court of appeals is affirmed consistent with the opinion  
of the court of appeals.

MOYER, C.J., PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.

DOUGLAS and RESNICK, JJ., separately dissent.

F.E. SWEENEY, J., dissents and would reverse the judgment of the court of  
appeals.

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**ALICE ROBIE RESNICK, J., dissenting.** I would reverse the judgment of the  
court of appeals and return the cause to the Industrial Commission pursuant to  
*State ex rel. Noll v. Indus. Comm.* (1991), 57 Ohio St.3d 203, 567 N.E.2d 245.