

**THE STATE EX REL. CITY OF ELYRIA, APPELLEE, v. INDUSTRIAL COMMISSION
OF OHIO, APPELLEE, ET AL.; WITHERELL, APPELLANT.**

[Cite as *State ex rel. Elyria v. Indus. Comm.*, 1998-Ohio-538.]

*Workers' compensation—Court of appeals' judgment reversed and Industrial
Commission's order reinstated.*

(No. 98-457—Submitted October 12, 1998—Decided December 30, 1998.)

Appeal from the Court of Appeals for Franklin County, No. 97APD01-18.

John L. Goodman, for appellee city of Elyria.

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

{¶ 1} The judgment of the court of appeals is reversed, and the order of the
Industrial Commission is reinstated.

DOUGLAS, RESNICK, F.E. SWEENEY and PFEIFER, JJ., concur.

MOYER, C.J., COOK and LUNDBERG STRATTON, JJ., dissent.

LUNDBERG STRATTON, J., dissenting.

{¶ 2} Because I would affirm the judgment of the court of appeals and
return the case to the Industrial Commission for further consideration, I respectfully
dissent.

MOYER, C.J., and COOK, J., concur in the foregoing dissenting opinion.
