

**THE STATE EX REL. SPINKS, APPELLANT, v. INDUSTRIAL COMMISSION OF OHIO,  
APPELLEE.**

**[Cite as *State ex rel. Spinks v. Indus. Comm.*, 1999-Ohio-393.]**

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

(No. 98-1444—Submitted February 23, 1999—Decided April 28, 1999.)

APPEAL from the Court of Appeals for Franklin County, No. 97APD03-326.

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*Philip J. Fulton & Associates* and *William A. Thorman III*, for appellant.

*Betty D. Montgomery*, Attorney General, *Gerald H. Waterman* and *Cheryl J. Nester*, Assistant Attorneys General, for appellee.

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{¶ 1} The judgment of the court of appeals is affirmed consistent with the opinion of the court of appeals.

MOYER, C.J., F.E. SWEENEY, COOK and LUNDBERG STRATTON, JJ., concur.

DOUGLAS, RESNICK and PFEIFER, JJ., dissent.

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**ALICE ROBIE RESNICK, J., dissenting.**

{¶ 2} I would reverse the judgment of the court of appeals.

DOUGLAS and PFEIFER, JJ., concur in the foregoing dissenting opinion.

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