

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

[Cite as *State ex rel. Walling v. Indus. Comm.*, 2000-Ohio-22.]

*Workers' compensation—Court of appeals' judgment reversed and State ex rel.
Gay relief ordered.*

(No. 00-349—Submitted July 25, 2000—Decided September 20, 2000.)

APPEAL from the Court of Appeals for Franklin County, No. 98AP-1599.

Law Office of Thomas Tootle Co., L.P.A., and Thomas Tootle, for appellant.

*Betty D. Montgomery, Attorney General, and William J. McDonald,
Assistant Attorney General, for appellee.*

{¶ 1} The judgment of the court of appeals is reversed. The cause is returned to the Industrial Commission for relief consistent with *State ex rel. Gay v. Mihm* (1994), 68 Ohio St.3d 315, 626 N.E.2d 666.

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

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

LUNDBERG STRATTON, J., dissenting.

{¶ 2} I dissent and would affirm the judgment of the court of appeals.

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