

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

[Cite as *State ex rel. Smith v. Indus. Comm.*, 2001-Ohio-114.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 00-1688—Submitted April 24, 2001—Decided June 6, 2001.)

APPEAL from the Court of Appeals for Franklin County, No. 99AP-955.

{¶ 1} 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, RESNICK and F.E. SWEENEY, JJ., dissent.

DOUGLAS, J., dissenting.

{¶ 2} I respectfully dissent. I would reverse the judgment of the court of appeals and adopt the decision of the magistrate.

RESNICK and F.E. SWEENEY, JJ., concur in the foregoing dissenting opinion.

John Anthony Bull, for appellant.

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