

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

[Cite as *State ex rel. Marston v. Indus. Comm.*, 2001-Ohio-225.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 00-749—Submitted November 14, 2000—Decided January 17, 2001.)

APPEAL from the Court of Appeals for Franklin County, No. 99AP-554.

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

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER and LUNDBERG
STRATTON, JJ., concur.

COOK, J., dissents.

COOK, J., dissenting.

{¶ 2} I agree with the rationale set forth in the dissenting opinion of Judge Deshler; therefore, I am unable to join the majority in affirming the judgment of the court of appeals.

Becker, Reed & Tilton and *Dennis A. Becker*, for appellee.

Betty D. Montgomery, Attorney General, and *Thomas L. Reitz*, Assistant
Attorney General, for appellant.
