

**THE STATE EX REL. DUNN, APPELLANT, v. INDUSTRIAL COMMISSION OF OHIO,
APPELLEE, ET AL.**

[Cite as *State ex rel. Dunn v. Indus. Comm.*, 2002-Ohio-3955.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 2001-2159—Submitted June 26, 2002—Decided August 21, 2002.)

APPEAL from the Court of Appeals for Franklin County, No. 01AP-241.

{¶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.

ALICE ROBIE RESNICK, J., dissenting.

{¶2} I would reverse the judgment of the court of appeals and return the cause 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 and F.E. SWEENEY, JJ., concur in the foregoing dissenting opinion.

Harris & Burgin and Andrea L. Burns, for appellant.

Betty D. Montgomery, Attorney General, and Erica L. Bass, Assistant Attorney General, for appellee.

Philip J. Fulton Law Office, Philip J. Fulton, William A. Thorman III and Jonathan H. Goodman, urging reversal for amicus curiae, Ohio Academy of Trial Lawyers.
