

West Virginia: Eligibility for Workers' Compensation Does Not Turn On the Employer's Fault

Article By:

Kaitlin L. Robidoux

I was recently asked **what happens if an employee is injured at work**, and the **employer is not at fault**. For example, an employee trips over a chair that is properly tucked into a table, and the employee is injured. The employer was not at fault for the employee's fall – after all, the chair was properly placed – and yet the employee could still be entitled to workers' compensation. Why is that?

Whether an employee is entitled to workers' compensation turns on the particular facts and circumstances of the employee's injury and not on whether the employer was at fault. In West Virginia, a claim is compensable under the Workers' Compensation Act if the employee was injured "in the course of and resulting from their covered employment." The Supreme Court of Appeals of West Virginia breaks this inquiry down into three elements: (1) a personal injury, (2) received in the course of employment, and (3) resulting from the employment. In the situation above, the employee fell and got hurt, so the first element is met. Therefore, the result would depend on the second and third elements.

Second Element: Whether an injury was received in the course of employment hinges on the time, place, and circumstances of the accident in relation to the employee's employment. If the employee was (1) on the employer's premises (even in a lunch room), (2) during the employee's regular work hours, and (3) was tending to her duties, this element is met. That is, the employee may be eligible for workers' compensation if she can also prove that the third element is met. As an example, a secretary was deemed to have met this element when she was injured from a fall while attempting to help another employee lift a box. The box was full of maternity clothes that had been loaned by one employee to another employee. The employee to whom the clothes were lent left the box in the secretary's office. The employee who owned the clothes came to collect the box and asked the secretary for help lifting the box, which is when the secretary fell. The court held that "there is no question that" the secretary's injury was received in the course of her employment – even though the secretary conceded that the box was unrelated to the employer's business, the employee who asked for help lifting the box was not her supervisor, and the employer was not at fault.

Third Element: To be covered by the Workers' Compensation Act, the employee's injury must have resulted from her employment. For example, in the case mentioned above, the secretary's injury did not result from her employment. The court stated that helping another employee lift the box was a purely personal task that involved no "instrumentalities of employment" and did not involve or benefit the employer. Therefore, the secretary was not entitled to workers' compensation. On the other hand, the West Virginia Supreme Court of Appeals held that an individual employed as a dishwasher was injured as a result of his employment when he fell on the employer's kitchen floor. He was found lying on the floor with pans on his ankle after his managers heard a loud crash.

In other words, whether an employee is entitled to workers' compensation will depend on the facts. Even if the employer was not at fault, if the employee was hurt on the employer's premises during her work hours while she was tending to her duties, and if the injury resulted from her employment, she can get workers' compensation.

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