



Employee Injuries: What's Covered Under the “Course and Scope” Rule?

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It's an average day for employee Slip Trippy. While heading out for his lunch break, Mr. Trippy's boss asks if he'd mind dropping off some invoices at the post office. After dropping off the mail, Mr. Trippy drives two miles to his favorite burger joint to pick up something for lunch. On his way however; he's involved in a motor vehicle accident. It's a common question I see as a claims professional overseeing more than 2,000 employers.... is he covered by his employer's workers' compensation insurance?

So what is covered under the workers' compensation statute? Generally, by definition, any injury, illness or disease that occurs out of, or in the course of employment, that was caused, contributed to, or aggravated by a specific incident. This includes any kind of repetitive occupational claim in nature that occurs while an employee performs their job over time, such as a rotator cuff tear from repeatedly reaching overhead or back injuries from heavy lifting.

However, there are circumstances in which injuries are not considered to have occurred out of and in the course of employment, and are not covered by workers' compensation. Below are some common examples that show why claims may be not be covered by a Workers' Compensation policy.

DEVIATION FROM EMPLOYMENT

As a general rule, if an employee deviates from performing his/her job duties, i.e., does something for a personal benefit and is not furthering the business of the employer, then any injury that occurs during the period of deviation is not within the course of employment and therefore, not covered. However, when the deviation stops and an employee returns to the normal course of their employment, any injury that would then occur is now covered. Keep in mind, if the deviation from the course of employment is solely for the employee's benefit, then the incident is not covered. If the employer does receive some benefit during the deviation, then the injury may be covered.

COMING AND GOING RULE

If an employee is injured on their commute to or from work, aka “coming and going,” this is not considered within the course of their employment, and would therefore not be covered. There are however; exceptions to this rule.

1. The Claimant’s Employment Contract Includes Transportation To And From Work
2. The Claimant Has No Fixed Place Of Work
3. The Claimant Is On A Special Mission For Employer
4. The Special Circumstances Are Such That The Claimant Was Furthering The Business Of The Employer.

When the injury occurs where an employee would reasonably be expected to be during the course of employment, while fulfilling the duties of his or her job, then it will likely be covered. A common example includes the employee parking lot. If an injury occurs while an employee is walking to or from a designated parking lot to the employer’s building, within a reasonable timeframe (before or after work), then he or she is usually entitled to workers’ compensation coverage because it’s a place he or she is expected to be while under the conditions created by the employer. Any similar situation created by an employer would likely allow an employee to collect worker compensation benefits under the Coming and Going Rule. Coverage may not apply if you were in the parking lot at a time when not expected to work or not engaging in furthering the business of your employer.

HORSEPLAY

When an injury occurs as a result of horseplay – something that is not within the course of employment – it is generally not covered. But, if the employer is aware that horseplay activities are taking place and is either participating, ignoring, or condoning them, then the injury may be covered within the course of employment.

COMPANY SPONSORED EVENTS

Company sponsored events can present a gray area when it comes to covering injuries under workers’ compensation. On the one hand, if a company sponsored event did not require an employee to attend, and there was no benefit for the employee beyond general goodwill, then the injury might not be covered. But if an employee felt obligated to go, that not attending the event would jeopardize his or her relationship with the employer or affect working relationships, then an injury at such an event may be covered. A common example we see (from a claims perspective) is at a company sponsored softball game. Whether the injury would be covered under workers’ compensation would need to be reviewed on a case-by-case basis and consider factors including the number of employees attending, management attendance, company sponsorship (uniforms) and if there was an expectation for employees to participate.

WORK FROM HOME

An employee is typically deemed to be in the course and scope of employment while at home and furthering the interest of their employer. Therefore, if an employee is injured while at home during business hours and the injury is related to employment or only includes a minor deviation (bathroom meal), then the injury is generally compensable.

TRAVEL

An employee is considered to be in the course and scope of employment while travelling on company sponsored business. Any injury suffered while travelling to, at, or from an airport, hotel or external office is generally compensable. Any minor deviation or reasonable activity is generally acceptable. Examples include injuries sustained while in their hotel room, having a meal, or commuting between appointments. Unnecessary or larger deviations such as gentlemen's clubs, sightseeing, and private recreational activities would not be compensable.

FIGHTING

If an injury occurs as a result of a fight between two employees, it will depend on what the fight occurred over. If the argument was over a personal matter not related to work, then it would not be covered. If the fight arose over a matter related to employment that was a function relative to work, then it may be covered.

INTOXICATION/INTENTIONAL ACT

Intentional injuries are not covered. If an employee is under the influence of an illegal substance and intoxicated, and the intoxication is the sole cause of his or her injury, the injury is generally not covered. However, if other factors contribute to the injury, and the employee was still furthering the business of their employer, it may be covered even if the employee was intoxicated. For example, if another party is at fault in a motor vehicle accident, then the injury is compensable regardless of the drug/alcohol influence.

THE SHORT ANSWER...

Returning to our original employee, Mr. Slip Trippy...Would the injury be compensable? The short answer is likely no. Because he deviated substantially from the course and scope of the request to drop off the mail, he was no longer fulfilling the employer's request in the course and scope of his job. But, if the accident had occurred on his way back to work, then yes, it would have been compensable.

The overall takeaway is that each claims scenario should be reviewed on a case-by-case basis. If you have any questions, be sure to consult your insurance professional on these difficult claims.

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