

# Can Trucker Injured at Home Before Trip Get Workers' Comp?



## SITUATION

A long-haul truck driver is permitted to keep his truck at home and leave for trips directly from there. Before a trip, he must idle the truck for 30 minutes to warm it up, inspect it, clear away any snow or ice and pack necessary tools, safety supplies and personal items needed for the trip. His employer pays him a flat fee for performing these pre-trip tasks. On a snowy day, the employer calls the truck driver at home, assigning him to a two-day trip for which he'll have to visit the employer's terminal to pick up a trailer. While performing the pre-trip tasks on the truck at home, the driver falls on his snow-covered driveway and injures his back. He submits a workers' comp claim.

## QUESTION

**Should the truck driver's injury be covered by workers' comp'**

A. Yes, because he was hurt at home, where the employer allowed him to keep the truck and leave for trips.

B. Yes, because he was hurt while performing pre-trip tasks that are a mandatory part of his job.

C. No, because he wasn't on the job until he went to the terminal to pick up the trailer.

D. No, because the injury was his own fault.

ANSWER:

**B. Because the pre-trip inspection and other tasks were a mandatory part of the driver's job, his injury arose in the course of his employment.** A basic principle of workers' comp is that a worker injured in an incident 'arising out of and in the course of employment' will be eligible for benefits. This hypothetical is based on a real appeal from a New Brunswick Workplace Health, Safety and Compensation Commission (WHSCC) denial of a workers' comp claim by a long-haul truck driver who fell at home while loading tools and supplies into his truck before a two-day trip. An appeals tribunal upheld the WHSCC decision, finding that the driver wasn't acting in the course of his employment until he arrived at the employer's terminal to pick up a trailer, so his injury wasn't work-related. The court disagreed. The pre-trip inspection and stocking of the truck with necessary supplies was a mandatory part of the truck driver's job. In fact, the employer specifically paid him for the time he took to prepare the vehicle. Therefore, he was injured in the course of employment and entitled to workers' comp.

## WHY THE WRONG ANSWERS ARE WRONG

**A is wrong** because although where the driver was injured is relevant, it's not determinative of whether the injury should be covered by workers' comp. The real issue is whether he was injured 'in the course of employment.' The employer did permit the driver to take his truck home and depart for trips from there. But even with permission from his employer to use his home as a base, workers' comp wouldn't cover every injury he sustained at home. For example, if he fell while playing basketball with his son in the driveway, he wouldn't be entitled to workers' comp. Instead, the nature of the task the driver was performing when injured, rather than where it was performed, determines whether he suffered the injury in the

course of employment.

**Insider Says:** For more information on workers' comp coverage of injuries suffered by workers at home, see '[Test Your OHS IQ: Does Workers' Comp Cover an Injury Suffered by a Telecommuter at Home](#)' Aug. 2012, p. 7.

**C is wrong** because a worker is considered to be on the job when he's performing mandatory work-related tasks. In this case, the driver had the truck and supplies at his home. The employer required him to take certain steps to prepare the truck before leaving on an assigned trip and paid him for doing so. When he began performing those mandatory tasks, he was on the clock. So because he was hurt while performing them, his injury occurred in the course of his employment and was compensable.

**D is wrong** because workers' comp is a no-fault law, which means that determining who's responsible for an incident isn't necessary. The purpose of workers' comp is to compensate workers promptly for work-related injuries in exchange for their giving up the right to sue their employers for their injuries. Thus, if an injury is work-related, it's generally compensable. (Note, however, that workers injured due to their own 'wilful misconduct' may not be entitled to workers' comp. See, '[Winners & Losers: When Is Workers' Misconduct a Bar to Workers' Comp Claims](#)' April 2011, p. 20.) So the fact the driver suffered an injury because of his snowy driveway doesn't necessarily mean he's not entitled to workers' comp.

[LeBlanc v. Workplace Health, Safety and Compensation Commission](#), [2012] NBCA 82 (CanLII), Sept. 20, 2012