Does Workers? Comp Cover an Injury Suffered after a Worker Quits?



Situation

A worker quits his job as a long distance truck driver, giving 14 days' notice. He completes a delivery after giving notice and then doesn't perform any work for the employer. Six days after giving his notice, he declines a new delivery assignment and returns to the employer's premises to retrieve his personal belongings from the truck that he'd been responsible for operating. He also returns to the employer some keys and toll money previously advanced to him. While retrieving his personal items from the truck, the worker injures his shoulder. He submits a claim for workers' comp benefits for the injury.

Question

Is the worker's injury covered by workers' comp'

A. No, because he was injured after he quit his job.
B. No, because he wasn't performing a work-related task when he was hurt.
C. Yes, because the injury occurred on the employer's premises.
D. Yes, because he was injured while performing activities incidental to his employment.

ANSWER:

D. Returning property to one's employer and cleaning out personal belongings are activities incidental to employment and so the injury is covered by worker's comp.

Explanation

This hypothetical is based on an actual case from New Brunswick in which the Workplace Health, Safety and Compensation Commission (WHSCC) denied the worker's claim for his injury on the grounds that he'd already quit his job and clearing out personal belongings wasn't a work-related task. The worker appealed, arguing that although he'd given notice, he was still employed at the time of injury and was responsible for cleaning out his truck and returning it and the advanced money to his employer. He argued those tasks were 'informal employer-sanctioned work activity.'

The Appeals Panel agreed with the worker, ruling that his injury was compensable. The rule of thumb is that workers' comp covers injuries arising out of and in the course of employment. And a WHSCC policy indicated that activities for the purpose or benefit of employment include not only formal tasks directly related to the job but also informal activities that aren't normally assigned tasks but are related to work. The Panel concluded that 'returning toll money and keys to the employer and cleaning out the employer's truck are actions that are incidental to employment.'

Why Wrong Answers Are Wrong

A is wrong because the fact that the worker gave notice before he was injured doesn't automatically mean his injury isn't covered by workers' comp. What matters is whether he was injured while performing a work-related activity. In this case, after the worker gave notice, he returned to the employer's premises to take his personal belongings and return his truck keys and toll money to the employer, which is when

he was injured. Because these acts are work-related (as discussed more below), his injury would still be compensable even though it happened after he gave notice.

B is wrong because returning property to an employer and cleaning out personal belongings from the workplace are informal activities incidental to employment. Workers' comp covers injuries that arise in the course of employment, which includes formal tasks directly related to the worker's job duties, such as making deliveries, as well as informal tasks that are related to employment although they aren't part of the worker's normally assigned tasks.

C is wrong because not every injury occurring to a worker on the employer's premises is automatically compensable. The injury must also be caused by an incident arising out of and in the course of the worker's employment. A worker injured on the employer's premises during an activity that's personal and not work-related won't be compensated. For example, a workers' comp claim would be denied if a worker was injured in the workplace while showing friends where he worked. In addition, injuries that are intentionally caused by the worker or due to the worker's intoxication or willful misconduct are also unlikely to be compensable even if they occur on the employer's premises.

***Insider* Says:** For a comparison of two cases involving injuries suffered by drunk workers, see 'Winners & Losers: Does Workers' Comp Cover Injuries Suffered or Caused by Drunk Workers'' 02/09, p. 16.

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