

Test Your OHS IQ: Does Workers' Comp Cover an Injury Suffered by a Telecommuter at Home?



SITUATION

A financial auditor works from her employer's offices one day a week, spends another day conducting audits in taxpayers' houses and the rest of the week working from home with her employer's permission. One morning, she goes to the office, does some work and leaves at the end of the day with a briefcase full of documents she'll need when she works from home the next day. When she gets home and parks in her driveway, she goes to lift the briefcase out of her car's trunk and seriously injures her back. At the time, the auditor was off-duty.

QUESTION

Is the auditor's injury covered by workers' compensation?

- A. No, because she was injured at home.
- B. No, because she wasn't working or on-the-clock at the time.
- C. Yes, because the action she was performing when she got hurt was work-related.
- D. Yes. Because she has permission to work from home, any injury she suffers

there is considered work-related.

ANSWER

C. Because the auditor was injured lifting a briefcase of work-related documents that she'd need for work the next day, her injury would be covered by workers' comp.

EXPLANATION

The workers' compensation laws provide benefits for workers who suffer injuries that 'arise out of' or 'in the course of' their employment. So if a worker is injured in the office, plant, factory or other workplace controlled by the employer, that injury is usually considered work-related and thus covered by workers' comp. But what if a worker suffers an injury while working from home? This scenario, which is based on an actual case from Quebec, addresses that issue.

In that case, the Commission des lésions professionnelles (CLP) ruled that the financial auditor's back injury was covered by workers' comp. The employer argued that the incident wasn't one that had arisen out of or in the course of the auditor's work because when it happened, she'd had left her 'professional sphere' and entered her 'personal sphere.' The CLP rejected that argument, noting that the actions she was carrying out when she got injured related directly to the work she'd already done that day and to the work she would have to do on the following day. Thus, in the CLP's view, her back injury was work-related.

Insider Says: For information on an employer's legal obligations as to a telecommuter's safety, see 'Safety Outside the Workplace: How Do OHS Laws Apply to Workers Who Work from Home'' July 2009, p. 1. And [click here](#) for a telecommuter office safety checklist.

WHY WRONG ANSWERS ARE WRONG

A is wrong because, under these circumstances, the auditor's home is also her workplace. In most cases, injuries a worker suffers at home *won't* be covered by workers' comp. But when a worker actually works from home, the house is considered a workplace for workers' comp and OHS purposes. In that case, any injuries the worker suffers at home could be considered work-related, depending on how and when the injuries occurred.

B is wrong because the fact the auditor wasn't actually working or getting paid when she was hurt isn't decisive. The activity she was engaged in at the time was directly connected to her job and was being performed for her employer's benefit—not for personal reasons. Thus, that activity—retrieving a briefcase of work documents—was work-related.

D is wrong because workers' comp won't cover *any* injury the auditor suffers at home. Yes, the auditor's home is a workplace because she works from there several days a week. However, for an injury to be covered by workers' comp, it must occur while the worker is actually doing something work-related. So for example, if the auditor burnt her hand while cooking dinner or tripped while folding laundry, these injuries wouldn't be covered by workers' comp simply because they happened at her home.

SHOW YOUR LAWYER

Desrochers et Agence du revenu du Canada, [2011] QCCLP 7562, Nov. 21, 2011