LEGAL ALERT

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Injury From Fall Out of Chair at Work Not "Within Scope of Employment"; No Workers' Compensation Benefits Awarded

The Illinois Appellate Court has held that there was no entitlement to workers' compensation benefits where a clerk's normal action of bending over and reaching for a pan while seated in his work chair, absent any defect in the equipment or the floor surface, and then suffering an injury when falling out of the chair, was insufficient to establish a work-related cause or injury arising out of his employment. *Noonan v. Illinois Workers' Compensation Comm'n,* 2016 IL App (1st) 152300WC

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Workers' Compensation Benefits Not Awarded

No award of benefits when a teaching assistant heard a noise while sitting down and turned in his chair. When he turned, he heard something snap in his back. The court found no evidence of a work-related cause or connection between the back injury and the aide's employment. The court noted that simply turning in a chair and suffering an injury, where there was no defect or unusual condition related to the chair, did not arise out of the aide's employment was not an injury caused by a risk incidental to the aide's job. *Board of Trustees v. Industrial Comm'n*, 44 Ill. 2d 207 (1969),

Workers' Compensation Benefits Awarded

Award of benefits was proper where employee suffered shoulder injury as a parts inspector while reaching into a deep, narrow box to retrieve a part for inspection. Such an act was a risk stemming from employee's job since his reaching and stretching his body into a deep, narrow box to retrieve a part he needed were job duties and "distinctly associated" with the employee's job. *Young v. Illinois Workers' Compensation Comm'n*, 2014 IL App (4th) 130392WC

FACTS

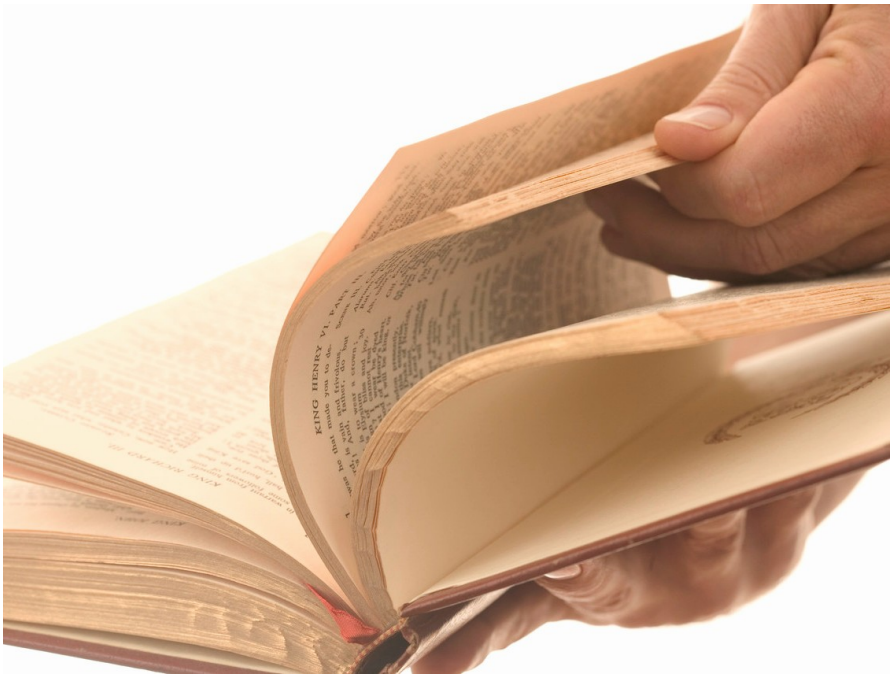
The employee involved had been a truck driver for the company. He sustained a work-related injury in that position to his back that resulted in permanent restrictions so that he could not perform the job duties for a truck driver. He was then employed as an office clerk by the company. His job duties included filling out "truck driver sheets" and answering phones. His work day was generally 7:00 am to 3:30 pm. After approximately 3 months in that job, while at work he suffered an injury when filling out a truck sheet. The employee testified that he got out of his chair to get another sheet, and when he sat down again, he knocked his pen on the floor. He put his left hand on top of his desk while seated and reached down for the pen. The chair was on wheels and as he stretched for the pen, the chair "went out from underneath [him]". He tried to break his fall with his right hand and when he braced against the floor he said it felt like he "jammed it". He said he felt pain and ultimately sought and received medical treatment, including surgery, for an injury to his right wrist.

There was no evidence of any kind that the chair was defective, or was on a slope or slant, so as to cause the employee to fall. The employee said that he believed the incident involved an ordinary fall.

ANALYSIS

The appellate court set forth the following principles as applicable to determining whether a workers' compensation claim is valid:

- "To obtain compensation under the Act, a claimant bears the burden of showing, by a preponderance of the evidence, that he has suffered a disabling injury which arose out of and in the course of his employment." *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203 (2003).
- "'In the course of employment' refers to the time, place and circumstances surrounding the injury." *Sisbro*, 207 Ill. 2d at 203.
- "The 'arising out of' component is primarily concerned with causal connection" and is satisfied when the claimant shows "that the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury." *Sisbro*, 207 Ill. 2d at 203.
- "For an injury to have arisen out of the employment, the risk of injury must be a risk peculiar to the work or a risk to which the employee is exposed to a greater degree than the general public by reason of his employment." *Orsini v. Industrial Comm'n*, 117 Ill. 2d 38, 45 (1987).
- An injury arises out of one's employment if, at the time of the occurrence, the employee was performing acts he was instructed to perform by his employer, acts which he had a common law or statutory duty to perform, or acts which the employee might reasonably be expected to perform incident to his assigned duties. A risk is incidental to the employment where it belongs to or is connected with what an employee has to do in fulfilling his duties. [*Citation omitted*]
- "[I]f the injury results from a hazard to which the employee would have been equally exposed apart from the employment, or a risk personal to the employee, it is not compensable." *Caterpillar*, 129 Ill. 2d at 59.
- The risks to which an employee may be exposed as "(1) risks that are distinctly associated with the employment; (2) risks that are personal to the employee; and (3) neutral risks that do not have any particular employment or personal characteristics." *Metropolitan*, 407 Ill. App. 3d at 1014 (2016)



- Employment-related risks are compensable while personal risks typically are not.
- Injuries resulting from a neutral risk generally do not arise out of the employment and are compensable under the Act only where the employee was exposed to the risk to a greater degree than the general public. Such an increased risk may be either qualitative, such as some aspect of the employment which contributes to the risk, or quantitative, such as when the employee is exposed to a common risk more frequently than the general public. [*citation omitted*]

DECISION OF THE COURT:

This employee's accident occurred "in the course" of his employment, i.e. while he was at work and engaged in his work responsibilities. The Court found the only issue to be whether or not the accidental injury arose out of his employment. The employee argued that his accidental wrist injury "arose out of his employment" because his attempt to pick up his pen was "in furtherance of his duties" for the company, contending that the act was "incidental to his employment." The Court pointed out however that the employee's job duties as a clerk required him to fill out forms and answer phones. His injury happened when his rolling chair "went out from underneath" him while he was trying to pick up a pen. The Court emphasized that reaching for his pen while sitting was not one he was "instructed to perform or had a duty to perform" and was not required by his job duties. The Court concluded that the risk of injury at issue was not one "distinctly associated" with his employment.

Workers' Compensation Benefits Not Awarded

No benefits were awarded when a police sergeant was training another officer. The sergeant hurt his back when the officer being trained asked a question and the sergeant turned in his chair to face the trainee. The court found that back injury did not arise out of the sergeant's employment, noting the sergeant simply turned in his chair and was injured. The chair was not defective and there was no proof that the sergeant's gun and holster (as alleged) got stuck on the chair as he pivot. The court emphasize that it is not enough that an accident simply happens to occur at the workplace. *Hopkins v. Industrial Comm'n*, 196 Ill. App. 3d 347 (1990)

Workers' Compensation Benefits Awarded

Award of benefits was proper where teacher assigned to hall duty to ensure safety of student and teachers while in halls, and specifically responsible for stopping children from running in the halls. The teacher was injured when she saw a student running and turned and twisted her torso to chase the student down. The teacher's injury there was found to be a risk arising out of her employment, since she had directed to take the risk of chasing down a running student. *O'Fallon School District No. 90 v. Industrial Comm'n*, 313 Ill. App. 3d 413 (2000)

The court found that the risk of injury for this employee was not distinctly associated with his work responsibilities for the company. Rather, the risk of falling out of a chair while stretching to pick something up to the floor is not one stemming from his work. The court found it to be a neutral risk and that benefits would be appropriate only if an employee proves that they were exposed to a certain risk to a greater degree than the general public would be. The court noted that "[e]mployment-related risks associated with injuries sustained as a consequence of a fall are those to which the general public is not exposed such as the risk of tripping on a defect at the employer's premises, falling on uneven or slippery ground at the work site, or performing some work-related task which contributes to the risk of falling." [citing *First Cash Financial Services v. Industrial Comm'n*, 367 Ill. App. 3d 102, 106 (2006)]. Here, the evidence showed employee was sitting in a regular chair, on an ordinary floor surface.

No workers' compensation benefits were awarded based on the fact that the employee "failed to prove that the simple act of sitting in a rolling chair and reaching for a pen exposed him to an increased risk of injury that was beyond what members of the general public are regularly exposed to."

A copy of the full decision is available at:

Noonan v. Illinois Workers' Compensation Comm'n,

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