Home Health: Aide Falls From Tree. Injured In Course And Scope Of Employment, Court Awards Compensation.

A home health aide had completed a certification course for certification as a certified nursing assistant. The only client of her agency employer with whom she worked was an elderly woman with limited physical mobility.

The aide worked a regular 6:00 a.m. to 3:30 p.m. shift in the client's home. She assisted her with bathing, dressing, personal care, housekeeping and meal preparation, drove her to various places in the town and did her grocery shopping for her, including getting her fresh fruit from the local farmers market.

One day after breakfast the client asked the aide to take the dog out to the yard as the aide routinely did once or twice a shift. The aide saw a fresh pear in the client's pear tree and decided to climb for it as she had done before without incident.

This time she fell, sustained a serious vertebral compression fracture, needed a complicated surgery for rod implantation and was rendered temporarily disabled from working.

Home Health
Liberal Interpretation of
Worker's Compensation Law

The Court of Appeals of North Carolina approved worker's compensation for medical benefits and time loss.

The court ruled that a home health worker is entitled to a very liberal interpretation of the course and scope of the worker's employment duties caring for a home health client, with the purpose being to find the worker covered by worker's compensation if at all possible while performing the varied and multi-faceted tasks characteristic of the field of home health.

An action being ill-advised, even foolish, does not defeat the purposes of the worker's compensation law if there is some connection between the action and the employment. **McGrady v. Olsten Corp., 583 S.E. 2d 371 (N.C. App., August 5, 2003).**

The worker's compensation law is supposed to be interpreted liberally in favor of allowing compensation to injured workers.

A worker's entitlement to compensation is not defeated by the worker's own negligence, even when the worker has engaged in foolish or even forbidden activity. The worker's compensation law was not enacted just for the protection of careful, prudent employees. Employees who do not stick strictly to their business are not beyond the law's protection.

For compensation to be available under the worker's compensation law it is enough that there be some reasonable relationship between the employment and the injury.

For an injury to arise out of and in the scope of employment it is generally sufficient that it occurred during the hours of employment and at the place of employment while the worker was in the performance of a job function.

COURT OF APPEALS
OF NORTH CAROLINA
August 5, 2003

Chlamydia Pneumonia: Court Finds No Connection To Nurse's Job In Hospital's NICU.

Shortly after taking a job in the hospital's neonatal intensive care unit a registered nurse became ill and tested positive for chlamydia pneumonia.

Due to the debilitating effects of the illness she has been unable to work since the time of her diagnosis.

A physician retained by the nurse's attorneys as a medical expert testified there is a greater likelihood of someone contracting pneumonia in a hospital setting as opposed to somewhere else.

The physician retained by the attorneys for the hospital stated in his opinion the nurse more likely than not contracted the disease out in the community and not in the hospital.

The worker's compensation law gives the worker's compensation board's administrative law judge the exclusive province to pass on the credibility of the witnesses and the weight of the evidence.

Unless there is overwhelming evidence the administrative judge was wrong, a court cannot overturn the judge's ruling.

COURT OF APPEALS OF KENTUCKY
UNPUBLSIHED OPINION
July 25, 2003

In an unpublished opinion, the Court of Appeals of Kentucky ruled there was no basis to overrule how the evidence was interpreted in favor of the employer's legal position by the worker's comp administrative law judge. **Roberson v. Norton Hospital, 2003 WL 21715187 (Ky. App., July 25, 2003).**

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