



The Workers' Compensation
Law Seminar

Case Law Update

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IDIOPATHIC FALL

Iowa Supreme Court: Bluml v. Dee Jay's, Inc., November 16, 2018

- Claimant had a seizure (idiopathic/personal) and fell to the ground, hitting his head on ceramic tile floor;
- Issue is one of “arising out of” employment;
- Employment must contribute something to the risk:
 - Increased risk of injury
 - Hazard connected to employment
- Justice Waterman dissented: “commissioner correctly determined that a dry, level floor at a fast food restaurant is not a workplace hazard as a matter of law.”

Idiopathic fall continued Bluml

- Supreme Court majority: no blanket rule regarding idiopathic falls onto flat surfaces.
- Claimant's head injury compensable because more serious injury due to **HARDNESS** of ceramic tile floor.
- Ruling made Iowa an outlier and could potentially convert the employer into a general health insurer.

Unexplained Fall

Jones v. Walmart, February 2109 arbitration decision, Deputy Grell

- Claimant fell on floor, claimed he did not know why, and hit his head.
- “Unexplained” falls v. “Idiopathic” falls
- In case of unexplained fall, falling on concrete floor presents an actual risk of injury, therefore “arising out of” standard is met.
- However, injury did not occur “in course of” employment and therefore not compensable.
- Claimant arrived 1 hour and 45 minutes prior to start of shift to eat breakfast at Walmart which provided no benefit to employer and actually posed increased risk to employer.

The Fix

- To Governor
- Section 85.61 subsection 7 amended by adding the following paragraph:
 - New Paragraph c. Personal injuries due to idiopathic or unexplained falls from a level surface onto the same level surface do not arise out of and in the course of employment and are not compensable under this chapter.

Other Situations

- Idiopathic or unexplained falls from
 - Ladders
 - Stairs
 - Striking a protruding object.

Penalty

Baccam v. ACH Foods aka Tones, Iowa Court of Appeals, 3/6/19

- Leg injury – DOI 6/12/12
- RTW full duty – 7/6/12
- Continued complaints/treatment
- Impairment rating (1% to leg) – issued 8/9/13 and 2.2 weeks of PPD paid immediately thereafter.
- Small penalty awarded.
- Different result under new statute, 85.34(2)??? PPD becomes payable at MMI.

Penalty continued

Azbill v. Linn-Mar School District, February 2019 arbitration decision, Deputy Pals

- Claimant sustained a crush injury to her left hand – DOI 7/5/16;
- Treating doc released claimant to RTW full duty – 1/7/17, however noting permanent loss of grip strength and diminished sensation in hand;
- No PPD ever paid; defendants never requested impairment rating;
- Defendants argued release RTW no restrictions = zero percent impairment rating.
- “Defendants do not cite any legal authority for their position.”
- “I find that despite objective evidence of loss of grip strength, defendants did not request an impairment rating.”
- \$6,600 penalty on \$23,576 PPD award – “enough to deter”

The New Shoulder

Reiter v. City of Remsen, October 2018 arbitration decision, Deputy Pals

- DOI: 7/17/17
- Parties stipulated disability was a scheduled member injury to the shoulder;
- New statute applies: functional impairment based on 400 weeks – industrial disability not available;
- Issue remains: Do you apply upper extremity rating or whole person rating to the 400 week schedule?
- “I conclude appropriate to apply the upper extremity rating *for this shoulder injury.*”

Alternate Medical Care Decisions

- Brewer-Strong v. HNI Corp., 913 N.W.2d 235 (Iowa 2018).
 - Accepted claim after initial denial
 - Unauthorized medical care – surgery
 - Refused healing period after unauthorized surgeries
 - Valid authorization defense
 - Law-of-the-case doctrine
 - Payment for unauthorized care – *Bell Bros.* test
 - “Reasonable and beneficial”

Alternate Medical Care Decisions

- Badia Joe v. O'Reilly Auto Enterprise, File No. 5059272 (Alt. Med. Feb. 13, 2019).
 - Denied claim – held compensable at hearing
 - Regaining control of medical care
- Laurie v. Agriland F.S., File No. 5061458 (Alt. Med. Feb. 14, 2019).
 - Failure to authorize treatment
 - Orthopedic surgeon v. occupational medicine physician

Alternate Medical Care Decisions

- Cejanovic v. Olive Garden, File No. 5066584 (Alt. Med. Jan. 7, 2019).
 - Compensable injury
 - Authorized physician's treatment recommendations
- Richard v. Arconic, File No. 5066894 (Alt. Med. Jan. 8, 2019).
 - Breakdown of physician-patient relationship
 - Selection of provider

Alternate Medical Care Decisions

- Stevens v. Norfolk Iron & Metal, File No. 5059598 (Alt. Med. Jan. 10, 2019).
 - Refusal to authorize surgery – no communication
 - Failure to investigate recommendations
- Murray v. Kraft Heinz Co., File No. 5067080 (Alt. Med. Jan. 25, 2019).
 - Surgery v. second opinion
 - Delayed second opinion – 4 months
 - Authorized physicians recommendations

Alternate Medical Care Decisions

- West v. Durham Sch. Serv., L.P., File No. 5067082 (Alt. Med. Jan. 28, 2019).
 - Defendants failure to respond
 - Mental health referral
 - Claimant chooses provider
- Wallace v. W.W. Transport Co., File No. 5067801 (Alt. Med. Mar. 20, 2019).
 - Spinal cord stimulator
 - Delay in obtaining second opinion
 - No physician recommendation