JANICE COLLINS, Employee, v. ST. LOUIS CO, SELF-INSURED, Employer/Appellant.

WORKERS' COMPENSATION COURT OF APPEALS
NOVEMBER 5, 2001

No. [REDACTED SSN]

HEADNOTES

ARISING OUT OF & IN THE COURSE OF - GOING TO AND FROM WORK. Where the employee's injury as she attempted to reenter the employer's building from the employer-owned parking facility had occurred within seven minutes of the employee's completion of her overtime work shift, and where the necessity of her return into the building was incident to her working overtime, the compensation judge's conclusion that the employee's injury had arisen out of and in the course of the employee's employment was not clearly erroneous and unsupported by substantial evidence.

Affirmed.

Determined by Pederson, J., Rykken, J., and Johnson, J.
Compensation Judge: Donald C. Erickson

OPINION

WILLIAM R. PEDERSON, Judge

The self-insured employer appeals from the compensation judge's determination that the employee's fall and consequent injury in the employer's parking lot arose out of and in the course of the employee's employment. We affirm.

BACKGROUND

The facts in this matter are not in dispute. Janice Collins [the employee] was employed as a floater in a laundry operated by St. Louis County [the employer]. The employee's normal work shift was 6:30 a.m. to 2:30 p.m. At the end of her shift, the employee would normally close down her work area, go to the locker room to gather her belongings, and perhaps use the restroom. She would then exit the facility through a door that led to the employer-owned parking lot where she parked her car. This parking lot was used primarily by employees of the employer, and this entry to it was normally not used by members of the public.

On June 10, 1999, the employee was required to work overtime for two additional hours and completed her work shift at 4:30 p.m. She concluded her workday in her customary manner and proceeded to her car in the employer's parking lot. When she arrived at her car, she discovered that she did not have her cell phone and decided to return to the employer's facility to use its phone. The employee needed the phone to call her husband to let him know that she had

completed her overtime shift and would pick him up on her way home. As the employee proceeded back to the building, she hooked her toe on an irregularity in the asphalt of the parking lot's surface and fell. The fall, which occurred about five to seven minutes after the employee's completion of her work shift, resulted in an injury.

The matter came on for hearing before a compensation judge on March 29, 2001, pursuant to the employee's claim petition and the self-insured employer's denial of liability. The sole issue presented to the judge was whether the employee's injuries arose out of and in the course of her employment with the employer. In a decision issued May 29, 2001, the compensation judge determined that the employee's injury arose out of and in the course of her employment with the employer and awarded certain temporary total, temporary partial, and permanent partial disability benefits, as well as medical expenses. The employer appeals.

STANDARD OF REVIEW

In reviewing cases on appeal, the Workers' Compensation Court of Appeals must determine whether "the findings of fact and order [are] clearly erroneous and unsupported by substantial evidence in view of the entire record as submitted." Minn. Stat. § 176.421, subd. 1 (1992). Substantial evidence supports the findings if, in the context of the entire record, "they are supported by evidence that a reasonable mind might accept as adequate." Hengemuhle v. Long Prairie Jaycees, 358 N.W.2d 54, 59, 37 W.C.D. 235, 239 (Minn. 1984). Where evidence conflicts or more than one inference may reasonably be drawn from the evidence, the findings are to be affirmed. Id. at 60, 37 W.C.D. at 240. Similarly, "[f]actfindings are clearly erroneous only if the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been committed." Northern States Power Co. v. Lyon Food Prods., Inc., 304 Minn. 196, 201, 229 N.W.2d 521, 524 (1975). Findings of fact should not be disturbed, even though the reviewing court might disagree with them, "unless they are clearly erroneous in the sense that they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." Id.

DECISION

Minn. Stat. § 176.011, subd. 16, defines "personal injury" for workers' compensation purposes as an injury "arising out of and in the course of employment" while an employee is "engaged in, on, or about the premises where the employee's services require the employee's presence as part of such service at the time of the injury and during the hours of such service." Moreover, workers' compensation coverage usually extends to an employee during a reasonable period of time for purposes of ingress and egress. See Olson v. Trinity Lodge, 226 Minn. 141, 32 N.W.2d 255, 15 W.C.D. 251 (1948). Furthermore, parking lots owned or maintained by an employer for its employees are normally considered part of the work "premises." See Starrett v. Pier Foundry, 488 N.W.2d 273, 274, 47 W.C.D. 176, 177 (Minn. 1992); Merrill v. J.C. Penney Co., 256 N.W.2d 518, 30 W.C.D. 278 (Minn. 1977). The compensation judge in this case determined that the employee's injury arose out of and in the course of employment because it was incurred in an employer-owned parking lot "in the course of egress or ingress within a reasonable time after the employee had completed employment for the day." The judge also found

that the employee's need to re-enter the employer's building was occasioned by her working overtime on that date.

In support of his decision, the judge relied upon this court's decision in Birch v. Hance Distrib., 58 W.C.D. 37 (W.C.C.A. 1997). In Birch, the employee had finished his shift at Burger King at 2:30 p.m., had then joined some friends and co-workers in the lobby, and had then gone outside with them and talked for fifteen to thirty minutes in the parking lot. As the employee had continued towards his car to leave the parking lot, his knee had given out as he stepped off a curb. The court determined that the injury had occurred within the course of employment, in that the employee had not left Burger King's premises and had sustained his injury while he was still well within the time frame deemed reasonable for ingress and egress. The employer contends that the facts in the instant case are distinguishable from those in the Birch case. It argues that safe egress from the workplace was concluded once the employee had crossed the parking lot and reached her car. The employer argues that the employee's decision to return to the laundry building to make a personal phone call was neither within the time limits of employment nor in fulfillment of work duties. In support of its position, the employer relies upon Boline v. Thomas Marine, Inc., 33 W.C.D. 522 (W.C.C.A. 1981), wherein this court denied compensation to an employee who had successfully left work and was then injured while returning to the work premises for a personal purpose. We are not persuaded.

No one comprehensive definition can be fashioned to fit all cases addressing whether an injury arises out of and in the course of employment. To a great extent, each case stands on its own facts. See Gibberd v. Control Data Corp., 424 N.W.2d 776, 780, 40 W.C.D. 1040, 1047 (Minn. 1988). In the instant case, no one disputes that the employee was following her normal route of egress and ingress to and from the employer's premises at the time of her injury. Nor can it be disputed that her injury occurred within a reasonable period of time beyond her normal working hours. Unlike the case in Boline, the employee's presence in the employer's parking lot at the time of her injury was not prompted by personal considerations. She was in the parking lot because she had just completed her work shift. Moreover, and significantly, the judge reasonably concluded that the employee's need to re-enter the laundry building was occasioned by working overtime for the employer on that date. As such, the activity was reasonably incident to the employer's business purposes. Furthermore, we view the employee's conduct in this case to be akin to a line of cases espousing the "personal comfort doctrine." As the supreme court stated in Hill v. Terrazzo Machine & Supply Co., 279 Minn. 428, 433, 157 N.W.2d 374, 377, 24 W.C.D. 511, 517 (1968), "It seems to be well established that acts of an employee necessary to life, comfort, or convenience while at work, although personal to him and not technically acts of service, are incidental to the service, and an injury arising while in the performance of such acts is compensable."

We conclude that, because the employee had not yet left her employer's premises, because she sustained her injury while she was still well within the time frame deemed "reasonable" for ingress and egress, and because the necessity of her returning to the laundry building was incident to her employment, the determination of the compensation judge that the employee's injury arose out of and in the course of employment was neither clearly erroneous nor

unsupported by substantial evidence. Accordingly, we affirm. See Hengemuhle, 358 N.W.2d at 59, 37 W.C.D. at 239.