ILLINOIS OFFICIAL REPORTS

Appellate Court

***Springfield Urban League v. Illinois Workers' Compensation Comm'n*, 2013 IL App (4th) 120219WC**

Appellate Court Caption	SPRINGFIELD URBAN LEAGUE, Appellant, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.* (Cass Kohlrus, Appellee).
District & No.	Fourth District Docket No. 4-12-0219WC
Rule 23 Order filed Rule 23 Order withdrawn Opinion filed	April 23, 2013 June 17, 2013 April 23, 2013
Held (*Note: This syllabus constitutes no part of the opinion of the court but has been prepared by the Reporter of Decisions for the convenience of the reader.*)	The Workers' Compensation Commission's finding that the knee injury claimant suffered when she tripped and fell on a bunched or kinked mat while walking out of a meeting she was attending arose out of her employment was not against the manifest weight of the evidence, since she had to attend the meeting as part of her employment, the meeting place was controlled by her employer, and she was performing tasks required by her work, and the Commission's order requiring her employer to pay her medical expenses and provide documentation regarding the fee schedule calculations complied with the statutory procedures mandated in the Workers' Compensation Act.
Decision Under Review	Appeal from the Circuit Court of Sangamon County, No. 11-MR-113; the Hon. John Schmidt, Judge, presiding.
Judgment	Affirmed.

Counsel on Appeal	Kenneth S. Bima (argued), of Livingstone, Mueller, O'Brien & Davlin, P.C., of Springfield, for appellant. John V. Boshardy and Andrew Ricci (argued), both of John V. Boshardy & Associates, P.C., of Springfield, for appellee.
Panel	JUSTICE HARRIS delivered the judgment of the court, with opinion. Presiding Justice Holdridge and Justices Hoffman, Hudson, and Stewart concurred in the judgment and opinion.

OPINION

¶ 1 On February 22, 2008, claimant, Cass Kohlrus, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2006)), seeking benefits from the employer, Springfield Urban League, for injuries suffered to her left leg on January 2, 2008. Following a hearing, an arbitrator found claimant suffered a "left knee injury and left distal fracture" on January 2, 2008, arising out of and in the course of her employment with the employer. Further, the arbitrator found "the accident of January 2, 2008[,] caused an aggravation to a pre-existing left knee degenerative arthritis and that a combination of the Petitioner's accident of January 2, 2008[,] and her pre-existing left knee degenerative arthritis combined to cause her need for a left knee total replacement." The arbitrator awarded claimant temporary total disability (TTD) benefits of $214.60 per week for 10 5/7 weeks; permanent partial disability (PPD) benefits of $193.14 per week for 86 weeks, representing 40% loss of use of the left leg (see 820 ILCS 305/8(e)(12) (West 2006)); and $50,328.90 for medical services.

¶ 2 The employer filed a petition for review of the arbitrator's decision before the Illinois Workers' Compensation Commission (Commission). On review, the Commission modified the arbitrator's decision, finding claimant failed to prove a causal connection between her work accident on January 2, 2008, and her "knee injury (and prospective total knee replacement) and aggravation of her pre-existing degenerative arthritis." The Commission otherwise affirmed and adopted the arbitrator's decision.

¶ 3 Thereafter, the employer filed a petition seeking judicial review in the circuit court of Sangamon County and the court confirmed the Commission's decision.

¶ 4 The employer appeals, arguing (1) the Commission's finding that claimant suffered an accident on January 2, 2008, arising out of her employment with the employer is against the manifest weight of the evidence and (2) this court must remand to the Commission for a determination of a dollar amount owed to claimant pursuant to the medical fee schedule. We affirm.

¶ 5 I. BACKGROUND

¶ 6 The following factual recitation is taken from the evidence presented at the arbitration hearing on March 2, 2010. The 77-year-old claimant testified she had been employed by the employer as a bus driver for approximately 10 years. On January 2, 2008, claimant attended a mandatory meeting of the employer's employees at St. Cabrini School in Springfield, Illinois. Approximately 200 employees attended the meeting. The meeting began at 8:30 a.m. and was scheduled to end at approximately 3:30 in the afternoon.

¶ 7 Claimant testified that at 3:25 p.m., the meeting ended and claimant walked toward the door leading to the parking lot. Claimant described a 10- to 12-foot carpeted mat edged with rubber placed in front of the door leading to the parking lot. Claimant stated the mat became bunched up midway along its length, causing her to trip and fall forward. According to claimant, she fell to the floor and broke her left knee.

¶ 8 Claimant testified that the photographs offered by the employer of the area where she fell did not accurately depict the position of the mat that became bunched and caused claimant to fall. In the photographs, there were two mats of similar size near the exit and placed in an "L" shape. On the day of the meeting, the mats were placed in a straight line leading into the gym where the meeting was held. Claimant testified she fell on the first mat after leaving the gym.

¶ 9 Kathy Laschansky testified that she worked as a bus driver for the employer on January 2, 2008, and attended the meeting at the school. Laschansky walked behind claimant with a couple of people between herself and claimant. Laschansky testified she saw claimant fall forward and she noticed the mat was kinked in the middle. Both Laschansky and claimant testified there were numerous people heading for the exits. Laschansky testified the mat leading to the exit was much longer than was depicted in the photographs. The mats were not placed on the floor in an "L" shape.

¶ 10 The employer offered the testimony of three employees: Norita Glover, Debra Lahey, and Tami McKittrick. Glover testified that she was walking directly behind claimant and talking to another employee. She was approximately three feet behind claimant and looking straight ahead. Glover did not look down to see the mat on which she and claimant walked, although she stated it looked like claimant just fell forward and both of her feet were caught on the mat. Glover testified the photographs accurately depicted the position of the mats on the day of the accident. She testified claimant fell between the two mats.

¶ 11 Glover gave a recorded statement to the employer on September 11, 2008. Glover stated she looked at the mat after claimant fell and the mat was not curled or raised that she could recall.

¶ 12 Lahey testified that she was walking in a different direction than claimant and as claimant exited, claimant passed in front of Lahey. Lahey saw claimant go down through her peripheral vision but did not have any viewpoint of claimant's feet or the condition of the mat when claimant fell. Lahey testified the photographs accurately depicted the position of the mats on the day of the accident, placed in an "L" shape. She testified claimant fell between the two mats. Lahey did not notice anything unusual about the mats.

¶ 13 Lahey gave a recorded statement to the employer on May 30, 2008, stating employees placed two mats at the door on January 2, 2008, "because it was wet outside." "We put both *** the one standard mat that's always in front of the door and then we placed a larger mat *** just past it so that way the floor *** was not wet and slippery." Lahey did not recall any separation between the mats, "maybe an inch tops between the two rubber seals." She recalled claimant's feet stopped at the beginning of the mat and she fell forward. According to Lahey, the mat appeared flat and level.

¶ 14 McKittrick testified that she was ahead of claimant exiting the same doorway and did not see claimant's feet or the condition of the mat when claimant fell. According to McKittrick, the photographs accurately depicted the position of the mats on the day of the accident, placed in an "L" shape. McKittrick testified that the mat was flat when she walked over it and when she observed the mat after claimant fell.

¶ 15 In her recorded statement, McKittrick stated that after coming to claimant's aid, claimant told McKittrick "that the rug got caught up. I don't know her exact words but she said that it was like it buckled." McKittrick did not recall looking at the floor to see if the mat was buckled as she was "just worried about [claimant] and then there were other people standing around."

¶ 16 Claimant testified that after falling, she experienced left leg pain and, specifically, pain at the left kneecap. Claimant drove but could not get out of the car because she was in pain. Claimant contacted friends who took her to the emergency room. Claimant advised emergency room staff of her fall and that she landed on her left knee. X-rays and a clinical evaluation showed claimant suffered a left distal femur fracture with intra-articular extension. On January 3, 2008, Dr. Joseph Williams performed surgical repair of claimant's femoral fracture. On March 19, 2008, Dr. Williams returned claimant to work with a restriction of no lifting greater than 20 pounds and frequent changes of position.

¶ 17 Claimant testified she was terminated from her position in September 2009. McKittrick testified that all bus drivers are laid off in May of every year and claimant was laid off in May 2009. McKittrick testified claimant was not rehired because of safety concerns.

¶ 18 Following the hearing, the arbitrator found claimant suffered a "left knee injury and left distal fracture" on January 2, 2008, arising out of and in the course of her employment with the employer. The arbitrator found the testimony of claimant and Laschansky to be the more credible testimony. Both claimant and Laschansky testified the mat became bunched or kinked causing claimant to fall.

¶ 19 Further, the arbitrator found the accident aggravated claimant's preexisting left knee degenerative joint disease, necessitating total knee arthroplasty. The arbitrator awarded claimant TTD benefits, PPD benefits, and medical expenses.

¶ 20 The employer filed a petition for review of the arbitrator's decision before the Commission. On review, the Commission modified the arbitrator's decision, finding claimant failed to prove a causal connection between her work accident on January 2, 2008, and her "knee injury (and prospective total knee replacement) and aggravation of her pre-existing degenerative arthritis." The Commission otherwise affirmed and adopted the arbitrator's decision.

¶ 21 Thereafter, the employer filed a petition seeking judicial review in the circuit court of Sangamon County. On February 15, 2012, the court confirmed the Commission's decision. This appeal followed.

¶ 22 II. ANALYSIS

¶ 23 The employer argues the Commission's finding that claimant's injuries arose out of her employment is against the manifest weight of the evidence. We disagree.

¶ 24 In a workers' compensation case, the claimant has the burden of establishing by a preponderance of the evidence that her injury arose out of and in the course of her employment. *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253, 403 N.E.2d 221, 223 (1980). The determination of whether an injury arose out of and in the course of a claimant's employment is a question of fact for the Commission to resolve, and its finding in that regard will not be set aside on review unless it is against the manifest weight of the evidence. *Litchfield Healthcare Center v. Industrial Comm'n*, 349 Ill. App. 3d 486, 489, 812 N.E.2d 401, 404 (2004). For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent. *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 291, 591 N.E.2d 894, 896 (1992).

¶ 25 An employee's injury is compensable under the Act only if it arises out of and in the course of the employment. 820 ILCS 305/2 (West 2006). Both elements must be present at the time of the claimant's injury in order to justify compensation. *Illinois Bell Telephone Co. v. Industrial Comm'n*, 131 Ill. 2d 478, 483, 546 N.E.2d 603, 605 (1989). "In the course of" the employment refers to the time, place, and circumstances under which the claimant is injured. *Scheffler Greenhouses, Inc. v. Industrial Comm'n*, 66 Ill. 2d 361, 366-67, 362 N.E.2d 325, 327 (1977). "A compensable injury occurs 'in the course of' employment when it is sustained while a claimant is at work or while he performs reasonable activities in conjunction with his employment." *Wise v. Industrial Comm'n*, 54 Ill. 2d 138, 142, 295 N.E.2d 459, 461 (1973). The employer does not dispute claimant was in the course of her employment at the time of her injury. The employer's focus is on the question of whether claimant's injuries arose out of her employment.

¶ 26 "Arising out of" the employment refers to the origin or cause of the claimant's injury. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203, 797 N.E.2d 665, 672 (2003). An accident arises out of one's employment if its origin is in some risk connected with or incidental to the employment so as to create a causal connection between the employment and the accidental injury. *Caterpillar Tractor Co. v. Industrial Comm'n*, 129 Ill. 2d 52, 58, 541 N.E.2d 665, 667 (1989). "Typically, 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." *Caterpillar Tractor*, 129 Ill. 2d at 58, 541 N.E.2d at 667. "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." *Caterpillar Tractor*, 129 Ill. 2d at 58, 541 N.E.2d at 667.

¶ 27 There are three categories of risk to which an employee may be exposed: (1) risks

distinctly associated with her employment; (2) personal risks; and (3) neutral risks which have no particular employment or personal characteristics. *Illinois Institute of Technology Research Institute v. Industrial Comm'n*, 314 Ill. App. 3d 149, 162, 731 N.E.2d 795, 806 (2000). 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. *Illinois Institute of Technology*, 314 Ill. App. 3d at 163, 731 N.E.2d at 806-07. 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. *Potenzo v. Illinois Workers' Compensation Comm'n*, 378 Ill. App. 3d 113, 117, 881 N.E.2d 523, 527 (2007).

¶ 28 In this case, claimant was leaving a mandatory meeting for approximately 200 employees of employer when she fell on a bunched or kinked mat. Claimant proved that she was required to be in the place where the accident occurred and that she was injured in a place controlled by her employer or while performing tasks that were mandated by her job.

¶ 29 Contrary to employer's argument, this case does not merely involve the risks inherent in walking on a mat which confront all members of the public. The accident occurred at an area used by the employer's employees to ingress and egress its facility. The evidence establishes claimant tripped on a kinked or bunched section of the floor mat as she was leaving the building.

¶ 30 The employer argues "[t]here is no evidence *** supporting the Commission's finding that the rug in question was defective." The Commission did not find the mat defective. Claimant testified that she fell on an area of the mat where it had bunched or kinked. The Commission found the bunched or kinked mat presented a "dangerous condition of the premises." The Commission's finding of a "dangerous condition" was not against the manifest weight of the evidence. "When, as in this case, an injury to an employee takes place in an area that is the usual route to the employer's premises, and the route is attendant with a special risk or hazard, the hazard becomes part of the employment." *Litchfield*, 349 Ill. App. 3d at 491, 812 N.E.2d at 406. Special hazards or risks encountered as a result of using a usual access route satisfy the "arising out of" requirement of the Act. *Litchfield*, 349 Ill. App. 3d at 491, 812 N.E.2d at 406.

¶ 31 We disagree with the employer's interpretation of *Tinley Park Hotel & Convention Center v. Industrial Comm'n*, 356 Ill. App. 3d 833, 826 N.E.2d 1043 (2005). In *Tinley Park Hotel*, the Commission's decision did not rest "on the frequency in which [the claimant] was required to face the risk in question," as the employer suggests. Instead, the Commission found credible the evidence suggesting that the *condition* of the newly installed carpet increased the risk of a fall. *Tinley Park Hotel*, 356 Ill. App. 3d at 842, 826 N.E.2d at 1050-51. Further, in *Litchfield*, this court's opinion reversing the Commission's denial of benefits did not rest solely on the claimant's regular use of a specific parking lot but, also, that the sidewalk involved in the claimant's injury was uneven and defective. *Litchfield*, 349 Ill. App. 3d at 491, 812 N.E.2d at 406. Likewise, here, claimant established sufficient proof of a special risk or hazard through testimony describing the kinked or bunched condition of the mat.

¶ 32 Based on the foregoing evidence, we conclude that claimant proved that her injury arose out of her employment.

¶ 33 The employer next argues that this court must remand to the Commission for a determination of a dollar amount owed to claimant pursuant to the medical fee schedule. We disagree.

¶ 34 At page two of his decision, the arbitrator ordered in part:

> "The respondent shall pay $50,328.90 for medical services, as provided in Section 8(a) of the Act. Respondent is to hold Petitioner harmless for any claims for reimbursement from any health insurance provider and shall provide payment information to Petitioner relative to any credit due. Respondent is to pay unpaid balances with regard to said medical expenses directly to Petitioner. Respondent shall pay any unpaid, related medical expenses according to the fee schedule and shall provide documentation with regard to said fee schedule payment calculations to Petitioner."

¶ 35 On February 28, 2011, the Commission modified the arbitrator's decision "with respect to causal connection to Petitioner's knee condition and degenerative arthritis and affirms all else," including the employer's liability "for medical expenses related to Petitioner's injury pursuant to the medical fee schedule."

¶ 36 The employer does not argue claimant failed to establish that her medical bills were necessary and causally connected to her work injury. The employer did not object to the introduction of claimant's medical bills. The employer argues it cannot be ordered to pay medical expenses according to the fee schedule "when the fee schedule amount is unknown."

¶ 37 Medical expenses are governed by section 8(a) of the Act (820 ILCS 305/8(a) (West 2006)). That provision states in relevant part:

> "The employer shall provide and pay the negotiated rate, if applicable, or the lesser of the health care provider's actual charges or according to a fee schedule, subject to Section 8.2, in effect at the time the service was rendered for all the necessary first aid, medical and surgical services, and all necessary medical, surgical and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury." 820 ILCS 305/8(a) (West 2006).

¶ 38 Pursuant to the Act, the employer must adjust the medical bills to conform to the fee schedule of section 8.2 of the Act. 820 ILCS 305/8.2 (West 2006). We note in response to the employer's concerns regarding coding and bundling that the fee schedule requires that services be reported with the "Current Procedural Terminology" (CPT) codes and in accordance with the HCPCS Level II, United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244 (2006), no later dates or editions. See 50 Ill. Adm. Code 7110.90 (2012). "If the claim does not contain substantially all the required data elements necessary to adjudicate the bill, or the claim is denied for any other reason, in whole or in part, the employer or insurer shall provide written notification, explaining the basis for the denial and describing any additional necessary data elements, to the provider within 30 days of receipt of the bill." 820 ILCS 305/8.2(d)(2) (West Supp. 2011).

¶ 39 The Commission's decision ordering the employer to "pay any unpaid, related medical

expenses according to the fee schedule and *** provide documentation with regard to said fee schedule payment calculations to Petitioner" complies with the statutorily mandated procedures set forth in the Act. Therefore, we need not remand to the Commission for a determination of a dollar amount owed to claimant pursuant to the medical fee schedule.

¶ 40 III. CONCLUSION

¶ 41 For the reasons stated, we affirm the circuit court's judgment confirming the Commission's decision.

¶ 42 Affirmed.