

No. 1-13-0749WC

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

JULIE MEIERDIRKS,)
) Appeal from the Circuit Court
) of Cook County.
 Plaintiff-Appellant,)
)
 v.) No. 12-L-50969
)
 THE ILLINOIS WORKERS')
 COMPENSATION COMMISSION and)
 NORTHBROOK SCHOOL DISTRICT #28,)
) Honorable
) Daniel T. Gillespie,
 Defendants-Appellees.) Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hoffman, Harris and Stewart concurred in the judgment.

ORDER

¶ 1 *Held:* Commission's finding that claimant failed to sustain her burden of establishing an accident arising out of her employment with respondent is not against the manifest weight of the evidence.

¶ 2 Claimant, Julie Meierdirks, appeals from the judgment of the circuit court of Cook County, which confirmed a decision of the Illinois Workers' Compensation Commission (Commission) denying her application for benefits under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2006)) for injuries she sustained as a result of a fall on February 9, 2007, while at work for respondent, Northbrook School District #28. For the reasons set forth below, we affirm the judgment of the circuit court.

¶ 3 I. BACKGROUND

¶ 4 Claimant is a foreign language teacher at a junior high school operated by respondent. On February 9, 2007, claimant fell in her classroom and fractured her left hip. Claimant underwent surgery to repair the hip and was released to return to work as of April 2, 2007. On September 6, 2007, claimant filed an application for adjustment of claim seeking benefits for the injuries she sustained as a result of the fall. The matter proceeded to an arbitration hearing at which the following relevant evidence was presented.

¶ 5 Claimant testified that she is assigned to a single classroom throughout the school day. Claimant stated that her desk and a table are at the front of the classroom. The classroom also has 24 student desks arranged in six rows of four desks. Claimant noted that in the summer of 2006, new carpeting was installed in the wing of the school where the foreign language classrooms are located, including her own classroom. Claimant described both the old and the new carpeting as "industrial-type carpet" but stated that the new carpeting felt "fluffier" than the carpeting that was previously in place.

¶ 6 Claimant testified that the fall occurred on a Friday at about 3:30 p.m., during the last period of the day. Claimant explained that the last period of the day is usually reserved for homeroom. However, on February 9, 2007, there was a morning assembly, causing class periods

to be shortened and shuffled. As a result, instead of having homeroom at the end of the day, claimant had a class to teach. Claimant testified that there was a group of 16 seventh-grade students in the class. She described the students as “active,” meaning that they were “very talkative, very animated.”

¶ 7 Claimant testified that the fall occurred when her left foot “caught on the carpet” as she was walking around the table at the front of the classroom. Claimant fell on her left side, striking her left hip on the ground and bumping her head against her desk. Claimant testified that immediately prior to the fall, she was giving the students a homework assignment. She was walking towards the students “with the intention of getting closer so they would focus more on [her].” Claimant stated that she was not looking down at the carpet while she was walking, but may have glanced at a textbook containing the homework assignment, which was on the table at the front of the classroom. Claimant testified that she does not usually give homework on Fridays, but because of the shortened day, the students did not have sufficient time to complete the exercises in class.

¶ 8 At the time of the injury, claimant was wearing gym shoes. She also had a brace on her left foot. The brace was necessitated by claimant’s preexisting rheumatoid arthritis. Claimant’s arthritis had resulted in prior surgeries to both of her knees, both of her feet, and her right hip. Claimant testified that because of her condition, she has limited range of motion in her left foot and ankle. Claimant further stated that she walked with an “arthritis walk.”

¶ 9 Claimant testified that she was unaware of any defect in the carpet and that, at the time of the fall, she was not holding anything in her hands and she was not walking at an increased rate of speed. Claimant gave a statement to respondent’s insurance carrier on February 21, 2007. The statement to the insurer was recorded, and a transcript of the recording was admitted at the

arbitration hearing. In the statement, claimant stated that her foot “got caught in the carpet and [she] stumbled but *** could not catch [her]self *** so [she] fell down.” Claimant also admitted that there was no defect in the carpet and that she was not holding anything in her hands at the time of the fall.

¶ 10 Based on the foregoing evidence, the arbitrator concluded that claimant’s injuries were not compensable under the Act. Relying on *First Cash Financial Services v. Industrial Comm’n*, 367 Ill. App. 3d 102 (2006), the arbitrator determined that claimant’s injury stemmed from a neutral risk. The arbitrator then noted that an injury resulting from the act of walking across a floor at an employer’s place of business will not be deemed compensable unless the employee was exposed to a risk to a greater degree than the general public. Citing claimant’s testimony that there was no defect in the carpeting, that she was not carrying anything in her hands, and that she was not walking at an increased rate of speed, the arbitrator found that claimant failed to present any direct evidence explaining the cause of her fall. As such, he determined that claimant failed to meet her burden of proving that the injury arose out of her employment and he denied claimant’s application for benefits. The Commission unanimously affirmed and adopted the decision of the arbitrator. On judicial review, the circuit court of Cook County confirmed the decision of the Commission. Claimant then initiated the present appeal.

¶ 11

II. ANALYSIS

¶ 12 At issue in this appeal is whether the Commission erred in concluding that claimant failed to sustain her burden of proving a compensable accident. An employee’s injury is compensable under the Act only if it “arises out of” and “in the course of” the employment. *University of Illinois v. Industrial Comm’n*, 365 Ill. App. 3d 906, 910 (2006); *O’Fallon School District No. 90 v. Industrial Comm’n*, 313 Ill. App. 3d 413, 416 (2000). A claimant bears the burden of proving

by a preponderance of the evidence that his or her injury arose out of and in the course of the employment. *Baldwin v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 472, 477 (2011); *First Cash Financial Services*, 367 Ill. App. 3d at 105. Both elements must be present to justify compensation. *First Cash Financial Services*, 367 Ill. App. 3d at 105.

¶ 13 The phrase “in the course of” refers to the time, place, and circumstances of the injury. *Illinois Institute of Technology Research Institute v. Industrial Comm'n*, 314 Ill. App. 3d 149, 162 (2000). Injuries sustained on an employer’s premises, or at a place where the employee might reasonably have been while performing his or her duties, and while the employee is at work, are generally deemed to have been received “in the course of” one’s employment. *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 1010, 1013-14 (2011). In this case, it is undisputed that claimant’s injuries were sustained in the course of her employment as the accident occurred on respondent’s premises during claimant’s regular work hours. See *Baldwin*, 409 Ill. App. 3d at 477-78. Thus, the sole issue for our review is whether claimant sustained her burden of establishing that her injury also “arose out of” her employment with respondent.

¶ 14 As a general rule, the question of whether an employee’s injury arose out of his or her employment is one of fact. *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253 (1980). A reviewing court will not disturb the Commission’s determination on a factual matter unless it is against the manifest weight of the evidence. *Mlynarczyk v. Illinois Workers' Compensation Comm'n*, 2013 IL App (3d) 120411WC, ¶ 15. Claimant, however, urges us to conduct *de novo* review of the Commission’s finding because “there are no disputes as to the facts or any factual inferences to be drawn therefrom.” We agree that *de novo* review is appropriate if the facts are undisputed and susceptible to only a single reasonable inference. *First Cash Financial Services*,

367 Ill. App. 3d at 104-05. However, where more than one reasonable inference may be drawn from the undisputed facts, the manifest weight standard is appropriate. *Mlynarczyk*, 2013 IL App (3d) 120411WC, ¶ 15. In this case, although the facts are undisputed, we do not believe that only a single inference may be drawn regarding whether claimant's injuries arose out of here employment. Accordingly, we will apply the manifest weight of the evidence standard. A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Freeman United Coal Mining Co. v. Illinois Workers' Compensation Comm'n*, 2013 IL App (5th) 120564WC, ¶ 21.

¶ 15 For an injury to "arise out of" one's employment, its origin must be 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 (1989). To determine whether a claimant's injury "arose out of" his or her employment, we must first categorize the risk to which he or she was exposed. *First Cash Financial Services*, 367 Ill. App. 3d at 105. Illinois courts categorize the risks to which an employee may be exposed into three general groups: (1) risks distinctly associated with the employment; (2) risks personal to the employee; and (3) neutral risks that have no particular employment or personal characteristics. *Baldwin*, 409 Ill. App. 3d at 478; *First Cash Financial Services*, 367 Ill. App. 3d at 105; *Illinois Institute of Technology Research Institute*, 314 Ill. App. 3d at 162.

¶ 16 Employment risks are "inherent in one's employment" and "include the obvious kinds of industrial injuries and occupational disease that are universally compensated." *Illinois Institute of Technology Research Institute*, 314 Ill. App. 3d at 162. In this case, claimant fell on level ground. There is no evidence that the risk of this type of injury is distinctly associated with claimant's employment as a teacher. As such, we are not presented with an employment risk.

Personal risks include exposure to elements that cause nonoccupational diseases, personal defects or weaknesses, and confrontations with personal enemies. *Illinois Consolidated Telephone Co. v. Industrial Comm'n*, 314 Ill. App. 3d 347, 352 (2000) (Rakowski, J., specially concurring); see also *Illinois Institute of Technology Research Institute*, 314 Ill. App. 3d at 162-63. Although generally noncompensable, personal risks may be compensable where conditions of the employment increase the risk of injury. *Illinois Institute of Technology Research Institute*, 314 Ill. App. 3d at 163, n.1. In this case, although claimant suffers from rheumatoid arthritis and was wearing a brace on her left foot at the time of her fall, there was nothing in claimant's testimony to suggest that her medical condition or the presence of the brace contributed to the fall. Accordingly, claimant's fall was not the result of a personal risk.

¶ 17 Having eliminated the first two types of risks, we find that the Commission correctly categorized claimant's fall as a neutral risk. *Illinois Consolidated Telephone Co.*, 314 Ill. App. 3d at 353 (Rakowski, J., specially concurring) ("In the context of falls, neutral risks include falls on level ground or while traversing stairs."). Injuries 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. *Metropolitan Water Reclamation District of Greater Chicago*, 407 Ill. App. 3d at 1014. Accordingly, resolution of this appeal centers on whether claimant presented evidence that she was exposed to a risk greater than that of the general public. Claimant presented no such evidence. Claimant denied that there was a defect in the carpet. See *First Cash Financial Services*, 367 Ill. App. 3d at 106 ("Employment 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"). Further, claimant testified that she was not holding anything at the time of the fall

(*cf. Knox County YMCA v. Industrial Comm'n*, 311 Ill. App. 3d 880, 885 (2000) (finding the claimant's fall was compensable because she was holding objects connected to her employment and was thereby exposed to a risk greater than the general public)) and that she was not walking at an increased rate of speed in order to complete a work task (*cf. William G. Ceas & Co. v. Industrial Comm'n*, 261 Ill. App. 3d 630, 636-37 (1994) (holding that a fall down a stairway is compensable where the claimant had been in a hurry to deposit an envelope for her employer in an express mail mailbox before the deadline for overnight shipping)). Rather, according to claimant, her foot "caught on the carpet" as she was walking around the table at the front of her classroom. However, by itself, walking across a floor at the employer's place of business does not establish a risk greater than that faced by the general public. *First Cash Financial Services*, 367 Ill. App. 3d at 105.

¶ 18 Claimant nevertheless insists that the Commission's decision was erroneous because it failed to take into consideration "the newer 'fluffier' carpeting, the fact that [she] was wearing rubber sole shoes and a brace as a result of her preexisting medical condition, the mood in the classroom because of the unusual schedule for the day as a result of the morning assembly, and that [she] was walking across the carpet while trying to maintain eye contact with 16 'very active' students while trying to read the assignment from a book on the table within the time constraints she had." We disagree. Claimant presented no evidence that any of these factors contributed to her fall. As noted above, despite claimant's description of the new carpeting as "fluffier" than the previous carpeting, claimant identified no defect in the flooring. In addition, claimant presented no evidence that her shoes or her medical condition played a role in her injury and she cites no evidence that the students' conduct distracted her or that she was responding to student behavior when she fell.

¶ 19 Claimant also suggests that reversal is mandated by two decisions of this court, *O'Fallon School District No. 90*, 313 Ill. App. 3d 413 (2000) and *Tinley Park Hotel & Convention Center v. Industrial Comm'n*, 356 Ill. App. 3d 833 (2005). We find both cases factually distinguishable.

¶ 20 In *O'Fallon*, the claimant, a school teacher, was assigned to hall duty, which meant that she was responsible for insuring the safety of students moving through the halls. The claimant injured her back when she turned, twisted, and began to pursue a student who was running in the hallway. We deemed the accident compensable, finding that the claimant was exposed to a risk greater than that faced by the general public because “[t]he need to turn, twist, and pursue a child, thereby stressing her back, is a risk that would not have existed but for [the] claimant’s employment obligations as hall monitor.” *O'Fallon*, 313 Ill. App. 3d at 417. Unlike the teacher in *O'Fallon*, claimant cites no evidence that, at the time of her fall, she was attempting to ensure the safety of the students in her classroom.

¶ 21 In *Tinley Park Hotel & Convention Center*, the claimant, a restaurant hostess, sustained multiple injuries after tripping on newly-installed carpeting at work. In finding the accident compensable, the Commission focused on the fact that the claimant tripped on carpeting that had been installed only two weeks prior to the claimant’s fall, evidence that other individuals had tripped on the carpeting, and testimony that the previous flooring was “uneven” concrete with “waves.” *Tinley Park Hotel & Convention Center*, 356 Ill. App. 3d at 838. In other words, the claimant in *Tinley Park Hotel & Convention Center* was walking on an entirely new surface when she fell. Here, in contrast, the carpeting had been installed eight months prior to claimant’s fall and was, by claimant’s own account, similar to the carpeting previously in place. Further, there was no showing in this case that the underlying floor surface had any defects or that others had tripped on the carpeting.

¶ 22

III. CONCLUSION

¶ 23 For the reasons set forth above, we affirm the judgment of the circuit court of Cook County, which confirmed the decision of the Commission denying claimant benefits under the Act.

¶ 24 Affirmed.