

Pennsylvania Weekly Case Law Summary

An employee in a highly stressful profession can be exposed to abnormal working conditions and suffer a compensable mental injury.

In Pennsylvania an employee can obtain compensation for a mental injury caused by mental stress if abnormal working conditions are present (a mental/mental case). The application of this general principle was the subject of a decision by the Pennsylvania Supreme Court in a case dealing with a state trooper. In *Payes v. WCAB (Commonwealth PA State Police)*, No. 50 MAP 2011, Decided October 31, 2013, a trooper claimed a psychological injury (PTSD) after a mentally disturbed person ran in front of the trooper's vehicle, resulting in the person's death despite attempted resuscitation efforts by the trooper. The WCJ determined that although state troopers are exposed to vehicle accidents, mayhem, bodily injuries, death, murder and violent acts in the normal course of their duties, they are not normally exposed to the circumstances of this case. As a result, the WCJ concluded that the claimant was exposed to abnormal working conditions and thus his PTSD claim was compensable.

The WCAB and the Commonwealth Court disagreed, both determining that the incident did not constitute an abnormal working condition given the stressful and perilous nature of a state trooper's profession.

The Supreme Court has reversed and reinstated the WCJ's award. The Court explained that although the question of whether an event is an abnormal working condition is a legal conclusion, this conclusion is based on the WCJ's findings of fact. It further explained that the WCJ's determination is a two step process: (1) the WCJ determines if an event is normal or unusual given the profession of the claimant and (2) if the WCJ determines that the event is unusual, then the WCJ analyzes whether the event is an abnormal working condition. Since the WCJ found the incident in this case was unusual, even for a state trooper, the Supreme Court felt bound by that determination and hence bound by the conclusion that this was an abnormal working condition.

Comment: The holding of this case places much more emphasis on the findings of fact by a WCJ in a claim of mental injury caused by job related mental stress. If the WCJ determines that the particular mental stress in a given case is unusual for the nature of the job being performed then this finding must be accepted on appeal unless it is not supported by competent evidence or is determined to be capricious or arbitrary. It is possible that this case will result in an increased number of claim petitions for mental/mental injuries. In these cases we will need to present fact witnesses that are credible and knowledgeable of the regular stressors of a particular profession in order to demonstrate that an event is a normal condition of employment.