

Cable Technician Who Started Each Day at Office Still Deemed a Traveling Employee

In Holler v WCAB (Tri Wire Engineering Solutions, Inc.), the Commonwealth Court decided whether a cable technician was in the course and scope of employment when he was seriously injured while he was on his way to his employer's office to pick up his assignments for the day. The facts of the case were not in dispute. The employee had use of a company van which he was only permitted to use for work purposes. He started each day from home, went to his employer each day for no more than about 15 minutes, picked up his assignments and equipment and then set out on assignments for the day.

Generally, injuries that occur while commuting to and from work are not compensable. However, if an employee is deemed to be a traveling employee, then injuries that occur during the commute are compensable, unless the employee's actions are so far removed that he has taken himself out of the course of employment. There are other exceptions, but this is the only one that was applicable in this case. The employee argued that because he didn't have an office, and only went to his employer to pick up his assignments and equipment, and was only there for a very short period of time that he effectively had no fixed place of business and, thus, he was a traveling employee such that his injury was compensable. The employer argued that because he came to work each day, to the same location, that by definition he had a fixed place of business and was injured during his commute to work, a non-compensable injury.

The Court held that the fact that the employee reported to a fixed location for about 15 minutes each day was not controlling, found that he was a traveling employee and hence the employee's serious injury was deemed to be compensable.

Cases involving injuries during a commute must be analyzed on a case by case basis and the facts of the case must be analyzed carefully before making a decision on compensability. A slight change in the facts can turn a compensable case into a non-compensable one.

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