

Jumping Down Stairs not Covered by Pennsylvania Workers' Compensation

In June 2007, cook and housekeeper Jeffrey Smith voluntarily jumped down a flight of 12 stairs on his lunch break at work at Penn State University, breaking both legs. After surgery in which screws were implanted in his ankles, Smith applied for [workers' compensation](#) benefits for these injuries, claiming that they were work related. He returned to work about two months later.

The Pennsylvania Workers' Compensation Act requires that for benefits to be appropriate, an employee must be injured in the course of employment and in relation to his or her job, "while the employee is actually engaged in the furtherance of the business or affairs of the employer ..."

The university opposed the claim for benefits, asserting that Smith was injured "outside the course and scope of his employment," and that he was engaged in employer-prohibited "horseplay."

Workers' compensation claims contested by employers in Pennsylvania are first heard by Workers' Compensation Judges employed by the Workers' Compensation Office of Adjudication, part of the Pennsylvania Department of Labor and Industry. According to the agency website, more than 90 WCJs work in 25 locations across the Commonwealth.

In the Smith case, the WCJ approved the application for benefits, finding that the injuries were in the "course and scope" of employment. Smith had attempted the jump on his lunch break while walking on campus from a building in which he performed job tasks to an on-campus dining hall where Penn State provided employee meals. The WCJ reasoned that Smith's

jump was also not “a direct, intentional violation of a positive work order against horseplay.”

Penn State appealed to the Workers’ Compensation Appeal Board, another branch of the Department of Labor and Industry. The Board agreed with the WCJ’s decision to grant workers’ compensation benefits. The employer appealed further to the Pennsylvania Commonwealth Court, which on Feb. 22, 2011, reversed the agency’s decision, holding that Smith’s “premeditated, deliberate, extreme, and inherently high-risk” act took the injuries outside the course and scope of employment.

Important points made by the court include:

- An employee’s action causing injury must be “in furtherance of the employer’s business or affairs” to be covered by workers’ compensation.
- An employee having a meal break on his or her employer’s premises is still considered to be in furtherance of their employers’ business unless the particular action is “wholly foreign” to the job.
- Short breaks from work for “personal comforts or convenience” or “inconsequential or innocent departures” do not interrupt employment.
- Three factors are important to the question of whether a worker is furthering his or her employer’s affairs while the worker is doing something personal during a work break. First, did the employer encourage the action? Second, did the action support the employer’s interest? Third, was the action part of practice or training for the job?

The court analyzed these factors and found that Smith’s unfortunate decision to try to jump the flight of stairs on his way to lunch was “wholly foreign” to his job duties, reversing the Board and denying benefits to Smith.

One judge dissented with emphasis on the “employer-sponsored, on-premises lunch program.”

Situations like this one are highly individualized and depend on the particular facts of each case.