Washington University Law Review

Volume 24 | Issue 2

January 1939

Workmen's Compensation—Injuries Arising out of and in the Course of Employment—Reasonable Time to Leave Premises After Severance of Employment

WORKMEN'S COMPENSATION—INJURIES ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT—REASONABLE TIME TO LEAVE PREMISES AFTER SEVERANCE OF EMPLOYMENT—[Missouri].—A foreman upbraided an employee about the manner in which the latter was operating a machine. Thereupon the employee, declaring that he would quit, immediately got his coat and other personal belongings from a locker. On his way to the stairway, twenty feet distant, he was assaulted and injured by the foreman. Interpreting the Workmen's Compensation Law which provides that " * * * the employer shall be liable * * * for personal injury or death of the employe by accident arising out of and in the course of his employment * * *,"[1] the court held[2] that the complainant should be allowed a reasonable time to leave the premises before the relationship of employer and employee should be deemed severed.[3]

It is well settled that an employee engaged in activities incident to his employment, such as washing up after work,[4] eating his lunch on the premises,[5] going to or returning from work while still on the employer's premises,[6] or getting a drink of water,[7] is entitled to compensation for injuries which he sustains.

As an extension to this rule it has consistently been held that the mere fact that the employee quits or is discharged does not in itself so completely sever the relation of master and servant as to render inapplicable the compensation statute. In *Mitchell v. Consolidated Coal Co.*[8] a miner who had quit his job and was injured while going down a manway to get his tools was held still to be within the course of his employment. In *Aetna Life Ins. Co. v. Windham*[9] an employee had been told by the manager that he was discharged, but the manager agreed to meet him on the sidewalk and discuss the dismissal; an injury sustained by the employee when the man-

1. R. S. Mo. (1929) sec. 3301.

2. Gardner v. Stout (Mo. 1938) 119 S. W. (2d) 790.

3. It should be noted that indirectly the court approved the doctrine that injuries are compensable which arise out of altercations between an employee and a superintendent or foreman. See Scholl v. Industrial Com. (1937) 366 Ill. 588, 10 N. E. (2d) 360, 112 A. L. R. 1254; San Bernardino Co. v. Industrial Accident Comm. (1917) 35 Cal. App. 33, 169 Pac. 255; Delco-Remy Corp. v. Cotton (1933) 96 Ind. App. 193, 185 N. E. 341; Hansen v. Frankfort Chair Co. (1933) 249 Ky. 194, 60 S. W. (2d) 349; Wyrwa v. Murray Corp. (1936) 274 Mich. 670, 265 N. W. 497; Traders & G. Ins. Co. v. Mills (Tex. Civ. App. 1937) 108 S. W. (2d) 219.

4. Hollenbach v. Hollenbach (1918) 181 Ky. 262, 204 S. W. 152; Sexton v. Public Service Comm. (1917) 180 App. Div., 111, 167 N. Y. S. 493; In re Ayers (1918) 66 Ind. App. 458, 118 N. E. 386.

5. Miller v. George & Mary Reisch Co. (1937) 132 Neb. 338, 271 N. W. 853; Humphrey v. Tretjen & S. Milk Co. (1932) 235 App. Div. 470, 257 N. Y. S. 768, aff'd (1933) 261 N. Y. 549, 185 N. E. 733.

6. Wabash Ry. Co. v. Ind. Accident Comm. (1920) 294 Ill. 119, 128 N. E. 290; Bylow v. St. Regis Paper Co. (1917) 179 App. Div. 555, 166 N. Y. S. 874; Schweiss v. Industrial Comm. (1920) 292 Ill. 90, 126 N. E. 566.

7. Woodward Iron Co. v. Curl (1907) 153 Ala. 215, 44 So. 969; Jarvis v. Hitch (Ind. App. 1902) 65 N. E. 608; Sloss-Sheffield Steel Co. v. Moore (1912) 6 Ala. App. 317, 59 So. 311.

8. (1923) 195 Ia. 415, 192 N. W. 145.

9. (C. C. A. 5, 1931) 53 F. (2d) 984.

ager seized and jerked him violently was held to have arisen out of and in the course of the employment. An employee in *Zygmuntowicz v. American Steel & Wire Co.*[10] was held to be in the course of his employment when he was injured in a fight with his superior after he had been discharged and was getting his identification check, preparatory to leaving the premises. In *Davis & Son v. Ruple*[11] an employee who had been discharged was allowed recovery for injuries which she sustained while being dragged off the premises.

It is submitted that the instant case, one of first impression in Missouri, is a proper application of the accepted rule to a somewhat novel situation.

A. E. H.

10. (1922) 240 Mass. 421, 134 N. E. 385.
11. (1930) 222 Ala. 52, 130 So. 772.