

## Decision of the Appeal Division

**Number:** 92-0412  
**Date:** February 14, 1992  
**Panel:** Alison Narod  
**Subject:** Work-Required Motion

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The worker appeals Review Board findings dated May 14, 1991. The issue is whether the worker sustained a back injury arising out of and in the course of his employment on February 14, 1990.

The injury occurred on February 14, 1990. The worker was employed as a heavy-duty mechanic. His back was fine before he started his shift that day. He changed the cylinders in a piece of heavy equipment. This work was somewhat awkward, but he did not feel any untoward sensations in his low back while engaged in this activity. According to the Review Board:

At approximately 11:00 a.m. [the worker] needed some solvent in order to clean some mechanical parts. He bent over at the waist to pick up a five gallon pail containing Varsol. This had been cut down to approximately half of its original height. While in the process of bending forward, and in the absence of any slip, trip, or any awkward motion, he experienced a sudden onset of pain in his low back. In response to questioning by the panel, [the worker] confirmed that he had not yet touched or picked up the container of Varsol. He was merely bending forward preparatory to doing so.

The worker's condition was ultimately diagnosed as a low back strain and possible disc herniation with no nerve impingement signs. The worker had two previous back injuries, one which involved a bilateral L4-5 discectomy and documented surgical findings of stenosis at L5-S1 and L4-5, as well as anterior bulging of the L3-4 disc. A W.C.B. medical advisor felt that the current injury was not related to the prior ones.

On February 28, 1990 the claims adjudicator advised the worker that his claim was denied. It was noted that the worker was simply bending over at the waist when he experienced his problems. This type of movement is done many times a day both within and without the work situation. The claims adjudicator found there was nothing

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particularly significant about the employment circumstance which would show that the work activity was causatively significant. In a memo of the same date, it shows that the claims adjudicator concluded that the worker's employment and duties had no causative significance in producing his condition because the worker was involved in a "normal body movement – bending over at the waist." It is clear, therefore, that the reason the claim was denied was because the act of bending over was a "normal body movement."

The Review Board upheld the denial of the claim.

The Review Board noted that an injury is not compensable simply because it happened at work, it must also arise out of the employment. That is, the employment must have some causative significance in the onset of symptoms. The Review Board commented that it was not the activity of lifting the pail of solvent that caused the back pain. The worker felt the symptoms before he even came in contact with the container. It wrote:

In [the worker's] case, he was simply bending forward preparatory to picking up a container from the floor. This, in the opinion of the panel, constitutes a natural body motion as described by the commissioners, and it is simply coincidental that the back pain came on while [the worker] was bending at work, rather than while he was bending elsewhere. The work activity itself had no causative significance in the onset of the symptoms.

I observe that virtually all body motions are natural body motions and some are more awkward than others to perform. Body motions such as bending are typically performed both at work and home, although a particular worker's duties may require him to perform them at work.

The compensability of an injury that occurs at work does not turn on whether it was awkward or unusual, although such features may assist in the adjudication of a claim. Rather, it turns on whether required work duties, whether awkward or not, have some causative significance in producing the injury. In this case, there appears to be no dispute that the act of bending had causative significance. The issue revolves around whether the bending activity was work-related.

The fact that a specific activity (including an apparently insignificant one) is a natural one that is performed at work and elsewhere does not mean its occurrence at work is thereby "coincidental." One must examine the whole of the facts, including whether the activity is work-required.

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This worker is a heavy-duty mechanic. He is required to perform bending activities as part of his work. He had been performing awkward activities earlier in the day of injury. He then bent over to pick up a pail of solvent. The object of this manoeuvre was to use the contents of the pail to clean some equipment. The worker suffered the onset of back pain while bending over and before lifting the pail.

The Review Board agreed that the lifting of the pail was part of the worker's employment duties. I have trouble with the notion of separating the lifting of the pail from the necessary preceding activity of bending over to lift it up. This is an unduly technical and artificial distinction that is not supportable. The whole series of motions involved is work-required.

The Board's policy gives some guidance. Decision No. 145 of the *Workers' Compensation Reporter Series* concerns a substantially similar fact situation. The worker worked on an assembly line. Her normal job involved handling cabinet doors piled on a rolling pallet. At the time of injury, the pile of doors was just about finished, requiring her to bend down lower. She felt the onset of back pain while bending over. She was not lifting at the time. The medical opinion was that the worker's preceding lifts had not caused her strain. The medical evidence supported the view that the act of bending down caused the injury.

The commissioners noted:

A person does not normally suffer a disability simply as a result of bending down. For this reason, a claim for disability resulting from the simple act of bending down should not be accepted without further enquiry. But neither is there any rule requiring such a claim to be denied. It should be examined and evidence obtained to reach a conclusion on whether the disability did result from the act of bending down, or whether it was caused by other factors, such as a deteriorating condition of the back that would have been likely to result in disability about that time regardless of what the worker was doing.

(I note that, in this worker's case, the medical opinion does not reveal another cause. It was felt that the worker's injury was not related to his prior claims.)

In Decision No. 145, the commissioners commented that the facts in that case were an example of the principle that if a job requires a particular motion, and that motion results in injury, the injury arises out of the employment and is compensable. The injury resulted from bending down and bending down was a required movement of her job.

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This principle is reflected in Item #15.20 of the Board's *Rehabilitation Services and Claims Manual*, "Injuries Following Motions at Work." It confirms that the mere fact that a natural motion takes place at work does not render a resultant injury compensable. It is necessary to distinguish between work-required and non-work-required motions, although it may often be difficult to do so. It is only where a work-required motion has causative significance in producing an injury that the injury is compensable.

Item #15.20 notes that such claims must be adjudicated with care and may require the exercise of judgment, particularly in cases where it is difficult to draw a line. The policy rejects the position that claims will only be accepted where there is some demonstrable act on the worker's part that is so directly connected with his work that the relationship is indisputable. The present inability of medical science to accurately pin-point the etiology of a great variety of spinal problems leads to a conclusion that, in appropriate circumstances, such incidents should be seen as causative and, if they occur while the worker is at his job, the resulting injury must be compensable. On the other hand, simple acts, such as walking up stairs or turning one's head to speak to a co-worker fall so clearly into the realm of "natural" or "normal" bodily functions that the only connection between them and the employment is the coincidental fact that the worker was on the job at the time.

Item #15.20 goes on to state that simply by adding a few more facts to these situations or others, it might well be possible in individual cases to find that a work relationship existed. The following excerpt is apposite:

Similarly, if a worker *bends* to pick up an object, and that motion is required by his job (e.g. a piece of debris while on clean-up, a piece of mail while working in the mail room, an item of equipment or machinery in a plant) and, *unrelated to the lifting of the object*, suffers an onset of disabling pain, that apparently insignificant motion might also establish some work relationship. In either of these cases, the motion although natural was performed as a matter of the worker's duties and may in that sense gain "work" status. (emphasis added)

As noted, the dispute is whether the act of bending down was a work-required motion and not whether that act caused the injury.

In view of the foregoing, I conclude that the act of bending down was a work-required motion.

THE APPEAL IS ALLOWED.

*Editors' note: This decision has been edited for publication.*