



Assaults on the Job: Workers' Comp or Not?

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When an employee is assaulted at the job site, many people rush to the conclusion that a resulting injury is automatically covered by workers' compensation. But as the Gershwin brothers song cautions us all, it ain't necessarily so.

Instead, to be eligible for workers' comp benefits, the victim must prove there is a connection or "nexus" between the job that's being done and the assault itself.

For example, nurses or health-care workers are occasionally assaulted by their patients. These occurrences usually happen when the worker is performing some type of care for the patient. In other words, a nursing assistant who might be grabbed by the neck or struck by an Alzheimer's patient most likely is eligible for workers' comp benefits. This is because there is a "nexus" between the patient, the worker, and the job the being done at the time.

On the other hand, random or even planned assaults or murders that happen in the workplace are often not covered. In one notable case, *Carnes v. Tremco Mfg. Co.*, an employee was murdered inside the workplace by one of her co-workers. However, the reason for the murder was that the two had broken off an extra-marital affair. After that, the co-worker had stalked the worker both inside and outside the workplace. The Kentucky Supreme Court concluded that the workplace and nature of their work neither "exacerbated" nor "precipitated" the murder, and thus denied comp benefits to the widower.

This line of reasoning was recently affirmed where a city meter-reader had finished his route in a company truck and was waiting on another co-worker to finish her route. A man who was not an employee assaulted the meter-reader while he was in the driver's seat. Jealousy was the motive behind the attack, and thus it was not compensable. However, coverage would have ensued if, for example, the motive had been different – if the attacker was dissatisfied about the meter-reader's work, hated the city for some reason, or thought the meter-reader had trespassed on his property. At that point, a "nexus" between the work itself and the assault would have been established.

Motel or convenience-store clerks have been the subject of several Ohio workers' comp cases. In most of those cases, the clerk has been the victim of a robbery. Benefits have been allowed in those cases because the robbery had a connection to the employment – the assailants were trying to steal the assets of the business. Thus, the work-related connection was present.

Workplace assaults are sometimes minor, and sometimes tragic. Yet, workers' compensation law is designed to cover occupational injuries, not injuries incidental to the occupation. To hold an employer legally liable, the victim must show that the crime has a causative connection to the employment.