

Court: Man Eligible for Workers' Comp Even If Drunk When Injured

On behalf of Johnston, Moore & Thompson

- January 17, 2011

The ruling in a recent [workers' compensation](#) appeal from New Mexico addressed an interesting question: If a person is drunk at work and gets hurt, should they be compensated for their injuries? The New Mexico Court of Appeal says yes, as long as the worker's drinking wasn't the sole cause of the accident.

Workers' compensation is a state-by-state program, so court rulings in other states have no direct effect on cases in Alabama. However, many of the same legal issues come up in workers' compensation benefits disputes across the nation. Courts from one state often look for guidance from other states' courts, in the interests of fairness and informed jurisprudence. So, an Alabama court might look at the reasoning of the New Mexico court when it is faced with the same issue.

If the Workers' Compensation System Isn't About Fault, Why Does It Matter the Worker Was Drunk?

In this particular case, New Mexico law says that a worker cannot be denied workers' comp benefits based on intoxication unless the intoxication was the sole cause of the accident that led to his injury. Indeed, many jurisdictions have policies that deny benefits to employees for purely self-inflicted injuries.

Employers are required to take all reasonable steps to prevent worker injuries. However, they perhaps cannot be expected to prevent someone from hurting himself despite the fact that no one at the company was negligent.

In most states, the law assumes that if someone is hurt in a [workplace accident](#) or otherwise during the course of his employment, he or she will be compensated. In order to deny benefits, the employer or the employer's insurance company must give a legally supportable reason why not. The mere fact that an employee was not performing well -- even extraordinarily poorly -- on the job is not an acceptable reason to deny benefits.

In the New Mexico case, the plaintiff worked for the City of Las Cruces, New Mexico, as a garbage collector in 2006. One day, the man, a co-worker and their supervisor were driving their route collecting garbage when a trash bin became stuck in the truck's hopper. The plaintiff and the supervisor climbed onto the truck, one on each side, to attach chains to the bin so it could be pulled out by a grapppler.

The man reached for one of the chains, lost his balance, and fell from the truck, seriously injuring himself. His blood-alcohol level was later found to be .12, higher than the legal driving limit.

However, because his co-worker and supervisor had not reported any problems with his work or behavior, the court could not conclude that he would not have lost his balance if he had not been intoxicated. The judge lopped off a 10-percent penalty, which is allowed by New Mexico law, but approved the bulk of the man's workers' compensation benefits.

The city appealed, but the New Mexico Court of Appeals agreed.

"While we are not particularly comforted by the approach we take, we are offered and we see no other approach that we can take without stepping on the policy prerogatives of the Legislature" [to determine that an injured worker cannot be denied benefits simply because he was drunk on the job], the court commented.

Source: Insurance Journal, "[Intoxicated New Mexico Worker Still Entitled to Workers' Comp Benefits](#)," December 29, 2010