Definition of Employer – Employee Under The Illinois Workers Compensation Act: Independent Contractors

Almost every employee in Illinois that is hired, or whose employment happens in the State of Illinois, is probably covered by the Illinois Workers' Compensation Act for work-related injuries from the moment they begin their employment. However, there are situations where an employee may not be an employee covered under the Act because of the way the law defines an "employee" covered under the Act. In this regard, it is important to understand how the Act defines "employer," and "employee."

The most applicable Section of the Illinois Workers' Compensation Act for those in the private sector (not employed by the State) is 820 ILCS 305(b)(2). This law states that an employee hired in Illinois to work in Illinois is "every person in the service of another under any contract of hire, express or implied, oral or written." In most cases, a "covered" employee will be able to obtain benefits, and be determined to be an employee, within the legal limits, under 305(b)(2).

However, there is a wrinkle in the Act that many companies want to take advantage of: The "Independent" worker, commonly called an "independent contractor" wrinkle. Specifically, an independent contractor is not an employee under the Act and is not entitled to benefits.Bauer v. Industrial Commission, 282 N.E.2d 448 (1972). Often an employer will try to avoid paying workers' compensation benefits by trying to classify their employees as independent workers, pay them as a "1099" employee without paying taxes, and tell their employees that they are independent contractors and not entitled to employee benefits. However, unlike other areas of the law, the designation in a contract that a petitioner is an independent contractor is of "lesser weight." Ware v. Industrial Commission, 318 Ill.App.3d 1117, 743 N.E.2d 579 at 583, 252 Ill.Dec. 711 (1st Dist. 2000). .

This means that, if a worker gets injured, and the employer attempts to avoid liability by labeling that worker as an "independent contractor," that doesn't mean that they are necessarily an independent contractor. A review of the injured workers' particular situation will be necessary. It is absolutely vital you speak with an attorney if you are denied based on being classified as a "independent contractor" in your case because you may be losing out on benefits that you are entitled to!

If you, or a loved one, has been injured at work, then you need information about your rights. At Shunneson Law Office, I am devoted to demanding an insurance company cover your injuries following accidents. Call (847) 693-9120 for more information or contact us to schedule a consultation. Located in Lake County, Illinois, with meeting locations throughout Chicago, we have the ability to meet with you at any convenient Chicagoland location from 9:00 a.m. to 5:00 p.m., Monday – Friday. However, evening and weekend appointments are available upon request by calling 847.693.9120.
-Drake Shunneson (copyright 2012)