

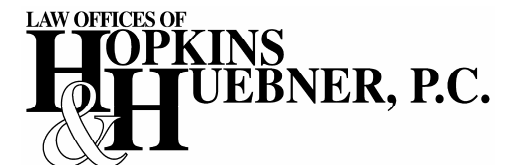


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# Falls and their Compensability

Matt Grotnes

Hopkins and Huebner, PC





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# TWO TYPES OF FALLS

- Compensable Falls
- Non-Compensable Falls
  
- What are the differences?
- What makes one fall compensable, and another non-compensable?



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# COMPENSABLE FALLS

- The injury arose out of and in the course of employment
- This is a two part test which **MUST** be satisfied in order to show compensability



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## ARISE OUT OF THE EMPLOYMENT

- This element requires proof that a causal connection exists between the conditions of the employment and the injury. In other words, the injury must not have coincidentally occurred while at work, but must in some way be caused by or related to the working environment or the conditions of the employment.



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## ARISE OUT OF THE EMPLOYMENT, Continued

- When there is apparent to the rational mind, *upon consideration of all the circumstances*, a causal connection between the conditions under which the work is required to be performed and the resulting injury



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## **IN THE COURSE OF THE EMPLOYMENT**

- Refers to the time, place, and circumstances of the injury. To satisfy this requirement, the injury must take place within the period of the employment, at a place where the employee reasonably may be, and while the employee is fulfilling work duties or engaged in doing something incidental thereto.



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# NON-COMPENSABLE FALLS

- A fall which does not arise out of and in the course of employment
- Possible Explanations:
  - Idiopathic Falls
  - Unexplained Falls
  - Actual-Risk vs. Positional Risk



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# IDIOPATHIC FALLS

- Falls which originate from a cause personal to the claimant. The origination and development are not clear, and are without recognizable cause, as of spontaneous origin.
- A truly “idiopathic” fall is NOT compensable under Iowa’s workers’ compensation Laws.



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# UNEXPLAINED FALLS

- Where the claimant slips or trips or falls for no superficially identifiable reason, the cause of the fall and the resulting injury is not idiopathic, but rather neutral or unexplained.
- Because Iowa has not adopted the positional-risk doctrine, these are held to be non-compensable.



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# ACTUAL-RISK DOCTRINE

- If the nature of the employment exposes the employee to the risk of such an injury, the employee suffers an accidental injury arising out of and during the course of the employment. And it makes no difference that the risk was common to the general public on the day of the injury.
- This IS the law in Iowa, and has been adopted by the Iowa Supreme Court.

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## POSITIONAL-RISK DOCTRINE

- An injury arises out of the employment if it would not have occurred *but for* the fact that the conditions and obligations of the employment placed the claimant in the position where he would be injured.
- This IS NOT the law in Iowa, and has been rejected by the Iowa Supreme Court



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## BARTLE V. SIDNEY CARE, INC.

- To meet the "arising out of" test, the incident that caused the injury must have "occurred while the employee [was] engaged in some activity or duty which [the employee was] authorized to undertake, and which [was] calculated to further, indirectly or directly, the employer's business.
- Cited in the dissenting opinion by Justice Hecht

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### BASIS SHOWING RELATED TO WORK

- “The parties deposed Dr. Gehrke in February 1998, who explained **he believed the injury sustained by McIlravy was work-related because McIlravy was working when the injury occurred and his job involved heavy labor activities, which placed him at greater risk for such injuries than workers engaged in less labor intensive activities.** North River did not obtain a medical expert to review Dr. Gehrke's opinion following the deposition, and conducted no further investigation.”
- McIlravy v. North River Insurance Company



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## CAUSAL RELATIONSHIP

- Blue stumbled *on the stairs*, the Commissioner finding that "[t]he injury occurred *from* the hazard of traversing stairs." (Emphasis added.) It is this causal relationship between a condition of Blue's employment--the stairs--and her injury that distinguishes the present case from those in which we have determined the employee's injury was not compensable.
- Lakeside Casino v. Blue, 743 N.W.2d 169 (Iowa 2007)



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# NEGLIGENCE OF CLAIMANT

- “Although Blue did not stumble due to any particular defect in or condition of the stairs, it is not necessary under Iowa case law that the stairs in Blue's workplace be more dangerous than a typical set of steps. In addition, **it matters not that she stumbled through her own inattention.** Blue's misstep was causally related to the fact that she was walking on stairs, and therefore, the Commissioner rationally concluded her injury arose out of her employment.”

Lakeside Casino v. Blue, 743 N.W.2d 169 (Iowa 2007).

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