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**Working From Home or Living At Work:
Compensability of Injuries Sustained
by At-Home Employees**

By Rena T.Z. Cummings

The COVID-19 pandemic has affected U.S. workplaces like nothing else in history, including the shift of many workers to off-site, remote work. While approximately 20% of U.S. workers worked from home prior to the pandemic, that number is now 71%.^[1] This shift to working from home may continue long after the pandemic is over.^[2]

It is foreseeable that there will be an increase in workers' compensation claims sustained at an employee's home. But when are such claims compensable? The issue turns on whether the alleged injury occurred 'in the course of' employment. Injuries sustained by an employee during the actual performance of work activities while at home are compensable. However, the presence of a home office alone does not afford any injury at the employee's residence the same presumption of work relatedness afforded to injuries that occur at an employer's premises.^[3]

For example, in two cases where employees claimed injuries sustained while performing snow removal, one was found not compensable^[4] and one was found compensable^[5]. In the compensable injury, the employee was injured while removing snow to access his car to pick up the company mail. In the non-compensable injury, it was found that the employee was removing snow as part of his normal duties as a homeowner.

In a 2008 case, the WCCA extended the personal comfort doctrine to employees where they were injured in their own homes while on breaks from work.^[6] In that case, an employee was injured when he fell down his stairs after leaving his home office on the way to his kitchen to get a cup of coffee. In her findings and order, the trial judge noted that, "[a]s a matter of policy, people who are required to maintain home offices as their only offices should have the same degree of workers' compensation coverage they would have in a building owned or rented by the employer."^[7] The WCCA agreed

noting that “[b]y requiring the employee to maintain a home office as a condition of his employment, the employer . . . extended the employment premises to the employee’s home and assumed some risks associated with those premises.”^[8]

Take home (pun intended): Whether an alleged injury occurring at an employee’s home is compensable is highly fact specific. Early fact investigation into exactly what the employee was doing when they sustained the injury is crucial. To determine the compensability of a claimed injury, it is important to know:

- What was the Employee doing immediately before the claimed injury?
- Where in the Employee’s home did the injury occur? (i.e. was it in the Employee’s home office? Bathroom? Kitchen? Outside? Inside?)
- What was the Employee planning on doing immediately after whatever led to the claimed injury? (e.g. if the Employee injured while walking to their car to pick up their child from school, it is less likely to be compensable. But if they were injured while walking to their car to go to a work meeting, it is more likely to be compensable.)
- What time of day did the injury occur? Is this during the Employee’s normal working hours?

If the claimed injury occurred during the midst of the Employee normal workday and was either part of their work or a short detour from the work, it is more likely to be compensable. If the claimed injury occurred during off-work hours and/or during a longer work break, it is less likely to be compensable.

If you have any questions regarding workers’ compensation injuries occurring at an employee’s home or other workers’ compensation matter, please feel free to contact me or the Brown & Carlson Hotline at (855) 844-7070.

[\[1\] How the Coronavirus Outbreak Has - and Hasn’t – Changed the Way American Work, Pew Research Center, December 9, 2020.](#)

[\[2\] See, e.g. Remote Work: The Biggest Legacy of COVID-19, Forbes, November 23, 2020.](#)

[\[3\] *Gillund v. Royal/Millbank Ins.*, 46 W.C.D. 520 \(W.C.C.A. 1992\).](#)

[\[4\] *Id.*](#)

[\[5\] *Lien v. Libby, McNiell & Libby et al.*, 26 W.C.D. 356 \(W.C.C.A. 1972\).](#)

[\[6\] *Munson v. Wilmar-Inline Brands, slip op.*, No. WC08-205 \(W.C.C.A. Dec. 16, 2008\).](#)

[\[7\] *Id.* at 3.](#)

[\[8\] *Id.* at 4.](#)

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