

## Brown & Carlson Insight

### The Assault Exception

For an employee's injury resulting from an attack at work to be compensable under the Workers' Compensation Act, "an injury must arise out of the employment, must be in the course of the employment and must not come within the 'assault exception.'" [Foley v. Honeywell, Inc., 488 N.W.2d 268, 271 \(Minn. 1992\)](#).

Pursuant to [Minn. Stat. § 176.011, subd. 16](#), personal injury does not include an injury caused by the act of a third person or fellow employee *intended to injure the employee because of personal reasons*, and not directed against the employee as an employee, or because of the employment (emphasis added).

In *Profit v. HRT Holdings*, the Minnesota Supreme Court addressed whether the mental illness of an assailant prevents a compensation judge from determining that an assailant *intended to injure an Employee for personal reasons* (emphasis added). 987 N.W.2d 575 (Minn. 2023).

In *Profit*, the employee was attacked at his job site by a mentally ill acquaintance as he was performing his work duties. The assailant falsely believed, as a result of his mental illness, that the employee was involved in the killing of the assailant's uncle. During the attack, the assailant declared that he was attacking the employee because he had killed his uncle. The assailant also made similar statements to police upon arrest. The assailant's uncle actually died from a heart ailment months earlier.

As a result of the injuries sustained in the attack, the employee brought a claim for workers' compensation benefits which were denied by the employer and insurer under the assault exception.

At the workers' compensation hearing, the employee argued that the assailant, who was declared incompetent to stand criminal trial following the assault, could not be found to have formed the intent necessary under the assault exception. The compensation judge ultimately found that the claim was barred by the assault exception. The employee appealed to the Workers' Compensation Court of Appeals (WCCA). The WCCA agreed with the hearing judge that the assault exception applied and affirmed the ruling.

On appeal to the Minnesota Supreme Court, the Court held that the plain language of the statute did not contemplate evaluating the effect of mental illness of an assailant if the intent to injure for personal reasons is evident. *Id.* at 584.

The Court went on to explain that the assault exception does not require a specific level of rationality, but only that the assailant must consciously and deliberately act to injure the employee for personal reasons. *Id.* In the case at hand, the Court found that while the assailant's reasons for injuring the employee were delusional, they were for personal reasons, not because of the employee's status as an employee or because of his employment. *Id.* Therefore, the Court found that the assault exception applied to bar the employee's claims for workers compensation benefits.

One take away for employers and insurers is that if an employee is the victim of an assault while working, a thorough investigation into the assailant's reason for the attack is necessary for determining whether the assault exception applies.

If you have questions about the assault exception or other workers' compensation matters, please reach out to me or any of my colleagues here at Brown & Carlson.

Jordan T. Bugella

763-252-6370

[jbugella@brownandcarlson.com](mailto:jbugella@brownandcarlson.com)

