

The Law Offices of Bolton & Helm, LLP

CASE LAW UPDATE

Premises Rule Eroded

The Premises Rule is commonly known to establish that injuries sustained by employees while on the employer's premises are compensable. However, the Premises Rule appears to have been eroded in the recent case of Express Script, Inc., v Hamlin, 36 Fla. L. Weekly D2100a (Fla. 1st DCA, 9/22/11).

Hamlin was injured while he was removing personal items from his car which was being repossessed from his employer's parking lot. The parking lot, where the accident occurred, was used exclusively by the employer and monitored by security guards. The claimant was on the clock and was not disciplined or sanctioned in any way by his employer for going to the parking lot in response to the repossession of his car. In reversing the JCC's finding that the accident was compensable, the 1st DCA explained that 440.02(36) means that an accident arises out of employment if work performed within the course and scope of employment is the major contributing cause of the injury. An injury is considered to "arise out of employment" when the employment necessarily causes a claimant to confront conditions which substantially contribute to the risk of injury. The appellate court clarified by stating that workers' compensation does not cover an accident that merely occurred in the course and scope of employment in the absence of some work related risk. Accordingly, even if an accident occurs on the employer's premises, in the absence of a work related risk, the resulting injury is not compensable.

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