



Connecticut » Massachusetts » New Hampshire » New Jersey » New York » Rhode Island » United Kingdom

What Happens if an Employee is Injured While Working From Home in New Jersey?

Over the last several weeks, many employees have been working from home. With thousands of office workers working from home in New Jersey, the New Jersey Workers' Compensation Courts may expect to see claims by workers who assert that they were injured while working from home.

N.J.S.A. 34:15-36 indicates that employment shall be deemed to commence when an employee arrives at the employer's place of employment for work, and shall terminate when the employee leaves the employer's place of employment; provided, however, when the employee is required by the employer to be away from the employer's place of employment, the employee shall be deemed to be in the course of employment when the employee is engaged in the direct performance of duties assigned or directed by the employer.

The New Jersey Supreme Court addressed the issue of an off premises employee who was injured, in the matter of Jumpp v. City of Ventnor, 177 N.J. 470 (2003). In that case, the petitioner used a city owned vehicle to travel throughout the city to monitor and check water wells, towers and sewage pumping stations owned and operated by his employer. The Court noted that off premises injuries sustained by employees who are directly involved in completing employer related tasks or engaged in activities approved by the employer and reasonably incidental to employment, are compensable. Jumpp v. City of Ventnor, 177 N.J. 470, 478 citing Livingstone v. Abraham & Straus, Inc., 111 N.J. 89, 96 (1988); O'Brien v. First Camden Nat'l Bank & Trust Co., 37 N.J. 158, 163 (1962); Strzelecki v. Johns-Manville Prod. Corp., 65 N.J. 314, 320 (1974); Watson v. Nassau Inn, 74 N.J. 155, 161-163 (1977).

The New Jersey Supreme Court in Jumpp noted that an employee who is required by the employer to be away from the employer's place of employment is in the course of employment when the employee is carrying out the work assignment and is, therefore, eligible for benefits. The Court explained that the case law has recognized that the legislative intent is to focus on the performance of the work. Accordingly, based upon the analysis of the Supreme Court and the case law, we can expect that office workers assigned to work at home during the pandemic at the direction of their employers will have a good argument that they should be considered off premises employees, entitled to workers' compensation benefits in the event that they sustain injuries at home while carrying out their work.

New Jersey case law also indicates that the Minor Deviation Rule considers personal habits or errands, such as smoking or making a personal phone call, to be in the course of employment even though, unlike the indispensable human functions of eating and using the lavatory, employees need not engage in such activities to perform their work duties adequately. Based upon an application of the Minor Deviation Rule, an employee would likely have a good argument for compensability in situations where the employee leaves his or her workspace in the home to use the bathroom, prepare or eat lunch or, perhaps, to step away to make a personal telephone call. Whether certain activities are to be considered compensable minor deviations will be fact sensitive and many activities, such as an employee stepping away from his or her work to help a child or a family member, might not be considered compensable.

As there is generally no one to directly monitor an employee working from home, it will be important to consider whether the employee has any set work hours while working at home or is permitted to do the work at any time during the day or night. An investigation can be conducted as to whether the employee was logged into the employer's computer system at the time of the alleged incident. Whether the employee had a home office or a space within the home where the work was performed and whether the accident occurred within that room or somewhere else in the home is another factor to be considered, although trips to the bathroom and trips to the kitchen for coffee have a good chance of being considered minor deviations which are compensable.

Please contact us should you have any legal questions or require advice related to COVID-19's impact on New Jersey workers' compensation cases:



**Christopher E.
Martin**
Partner



**Jeffrey R.
Swanson**
Of Counsel

Note: This document is provided for informational purposes only and is not to be construed as legal advice.