

**THE MONTH IN PENNSYLVANIA WORKERS' COMPENSATION:
JULY 2013 AT A GLANCE
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COURSE AND SCOPE

- An employee, who was a painter employed by a Construction Company and assigned to paint a dormitory building on a University campus, was not on the employer's premises and not in the course and scope of employment where he injured himself while walking to the subway, 150 feet from the dormitory he was painting but still on the University's campus, after completing his day of painting.

It is true that "premises" is not necessarily limited to buildings or property controlled, occupied, or owned by the employer but, rather, "premises" can encompass property that "could be considered an integral part of the employer's business". However, in this matter the claimant was not employed by the University, but by Construction Company and was hired to paint a single dormitory. The claimant's employer cannot be said to have occupied, controlled or used any part of the University's campus beyond the single dormitory.

Here, the claimant was no more than a member of the public using the employer campus as a pedestrian. The Employer had no interest in how Claimant or any employee travelled. The chosen route was not integral to Employer's business. In short, Claimant failed to prove the slate pathway he chose to use on the University campus was integral to Employer's business.

- An injury takes place in the course of employment if it occurs in either one of two distinct situations:
 - First, an injury is compensable if it occurs while the claimant is furthering the business or affairs of his employer, whether the injury occurs on or off the employer's premises.
 - Second, even if the claimant is not furthering the employer's business at the time of his injury, he is entitled to benefits if he is injured "on the employer's 'premises' at a reasonable time before or after the work period."

If the claimant is on the employer's premises at the time of the injury he must prove all of the following: The employee (a) is on the premises occupied or under the control of the employer, or upon which the employer's business or affairs are

being carried on; (b) is required by the nature of his employment to be present on his employer's premises; and (c) sustains injuries caused by the condition of the premises or by operation of the employer's business or affairs thereon

- Employees are generally not eligible for workers' compensation benefits when commuting to or from work. However, an exception to this rule exists for travelling employees because they have no fixed place of work. When a travelling employee travels to an assigned workplace, the employee is furthering the business of his employer, and any injury sustained while travelling is compensable.

A union assignment for a single project does not make an employee a travelling employee. The fact that a job has a discrete and limited duration does not make the employee who holds it a travelling employee

The claimant who was a union painter assigned by the employer to paint the rooms in one dormitory was not a traveling employee rather, he was assigned to work at a particular project until the project's completion and was not going to report to any other work site or work under the direct supervision of anyone other than the employer during that time.

Mansfield Brothers Painting v. WCAB (German) No. 1858 C.D. 2012
(Decision by Judge Leavitt, July 26, 2013) 7/13