

CALIFORNIA

EMPLOYMENT LAW LETTER

Part of your California Employment Law Service

Vol. 24, No. 22
February 23, 2015

WORKERS' COMPENSATION

Court clears way for injured prison guard's premises liability lawsuit

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A resident-employee at San Quentin fell on the stairs outside his state-owned rental unit. He collected workers' compensation benefits for his injury but also sued the state for damages. The trial court dismissed the employee's lawsuit after the state argued that workers' comp should be his sole remedy. The court of appeal found the dismissal improper because there was a question about whether the employee's injury arose out of and in the course of his employment.

Prison guard injured on his walk to work

Monnie Wright was a correctional officer at San Quentin State Prison. The year after his hiring, he moved into a state-owned apartment inside the gated area of the prison grounds. It was not a condition of his employment that he live at San Quentin.

Wright's commute consisted of a walk through state-owned common areas to the checkpoint, where he entered the secure portion of the prison. Once inside the prison, he pressed through a series of security doors to his assigned unit and signed in for work. He paid market-rate rent and received no discount or other employment benefit in exchange for living on the property.

Wright's lease required him to obtain state-approved comprehensive liability coverage naming the state as the insured. The lease stated in pertinent part: "Owner will not be liable for any damage or injury to Tenant, or any other person, or to any property, occurring on the premises, or in common areas. . . . Tenant agrees to hold Owner harmless from any claims for damages."

One day during his walk to work, Wright fell and injured himself when one of the stairs in the common area of his residence allegedly collapsed. He sought and received more than \$137,000 in workers' comp benefits, including reimbursement for medical expenses and disability payments. He also sued the state on a theory of premises liability, claiming that a "defectively constructed and dangerously maintained stair crumbled beneath him," causing his injuries.

The trial court dismissed Wright's case without a trial, finding that his premises liability claim was barred because the injury occurred on San Quentin premises, and workers' comp was his only avenue for recovery. Wright appealed, and the court of appeal reversed the decision.

When is an employee covered by workers' comp?

California's Workers' Compensation Act provides the exclusive remedy for an employee seeking compensation from his employer for injuries "arising out of and occurring in the course of employment." Absent extraordinary circumstances, an employee who is injured en route to or from work is generally not entitled to workers' comp benefits. That principle is referred to as the "going and coming rule."

When a nonresident employee is injured on the employer's premises, the "premises line rule" generally allows for the recovery of benefits because the injury is considered to have occurred on the job. The "bunkhouse rule" mandates that employees who are required to live in employer-owned housing and are subsequently injured on the premises are generally considered to have been injured on the job and are therefore entitled to collect workers' comp benefits.

Court debunks workers' comp defense

The state contended that because Wright was a state employee who fell while he was walking to work on state-owned premises, the going and coming rule did not apply, and the premises line rule dictated that he

should be compensated via workers' comp only. Wright disagreed, arguing that his lawsuit could be barred only if his injury arose out of and in the course of his employment.

At the time of his fall, Wright had not even left his residential complex, let alone passed into the secure area of the prison, and he was therefore technically injured during his commute. Living at San Quentin was not a condition of his employment, so the fact that he was injured on state property did not mean he was necessarily injured "on the job" for purposes of the bunkhouse rule. The court of appeal agreed.

Wright was not working when he fell. He lived on San Quentin premises voluntarily, and his rental payments were not a benefit of his employment. Additionally, he was never on call, nor did he perform any work out of his home.

The state also complained that a finding for Wright would require that each workers' comp claim involving incidents at San Quentin be evaluated under a myriad of factors, including each employee's work, parking, and residence location, regardless of whether he was living on or off prison grounds. That was a red herring. Because 98 percent of San Quentin guards live off-site, the premises line rule would generally govern for most of the prison workers.

Wright's lease was instructive

Wright's lease contained provisions requiring him to obtain a broad policy of public liability insurance and exculpate the state from liability arising from injuries that occurred on the premises, in the absence of negligence or willful misconduct by the state. Wright argued that the inclusion of those indemnity and insurance provisions in his lease reflected the fact that the state did not intend its workers' comp policy to insure him for all injuries suffered on San Quentin grounds.

The state tried to argue that because the injury did not occur inside Wright's home, but rather on a stairway located 30 to 40 feet from his front step, the lease agreement was irrelevant. The court of appeal disagreed, pointing out that the state would not have included the provisions in the lease had it intended for Wright to be covered by workers' comp insurance. *Wright v. State of California* (California Court of Appeal, 1st Appellate District, 1/30/15).

Bottom line

On-site housing can be both a substantial benefit and a substantial burden to businesses. As this case indicates, providing accommodations to employees raises a myriad of legal issues encompassing landlord-tenant, premises liability, and workers' comp law. There are also wage and hour implications when free or reduced-cost

rent constitutes a portion or all of an employee's compensation. Seeking the advice of legal counsel is imperative to limit potential liability that arises out of employer-provided housing.

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