

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT,  
Appellant,  
vs.  
DARLENE MORNINGSTAR,  
Respondent.

No. 56323

**FILED**

**JUL 18 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for judicial review of an appeals officer's decision in a workers' compensation case. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Respondent Darlene Morningstar was injured when she fell down a flight of stairs located in the building where her employer, appellant Las Vegas Metropolitan Police Department, leases office space. Metro denied Morningstar's workers' compensation claim, and Morningstar eventually appealed the denial to the Hearings and Appeals Office. The administrative appeals officer reversed Metro's decision, the district court denied Metro's petition for review, and this appeal followed. Metro raises four claims of error.

First, Metro contends that the appeals officer erred in concluding that Morningstar suffered any injuries from an accident. We conclude that the medical testimony and documentary evidence that the appeals officer received is substantial evidence to support his conclusion that Morningstar was injured by an accidental fall. See Mitchell v. Clark County Sch. Dist., 121 Nev. 179, 181, 111 P.3d 1104, 1105 (2005) (stating

that an agency fact-finding will not be disturbed on appeal if supported by substantial evidence); see also NRS 616A.030 (defining “accident” for purposes of workers’ compensation statute); NRS 616A.265 (defining “injury”).

Second, Metro claims that because the stairs where Morningstar was injured were not owned or controlled by Metro, her injuries did not arise out of her employment and are thus noncompensable. We disagree. The appeals officer received evidence that Metro’s lease with the building owner gave its employees a right to park in an allotted number of spaces in the parking garage and use the attached stairs and elevator to reach Metro’s offices on the second floor. The lease also assigned liability for employee injury in the building’s common areas solely to the employer. The appeals officer reasoned from these facts that these common areas therefore constituted a part of Metro’s premises for workers’ compensation purposes. We conclude that the appeals officer’s determination was neither arbitrary nor capricious. See Bob Allyn Masonry v. Murphy, 124 Nev. 279, 282, 183 P.3d 126, 128 (2008); see also MGM Mirage v. Cotton, 121 Nev. 396, 400, 116 P.3d 56, 58 (2005) (recognizing that the employer parking lot was part of the employer’s premises and therefore the employee injury during transit from lot to building was a compensable event); Fournier v. Aetna, Inc., 899 A.2d 787, 790 (Me. 2006) (recognizing that the stairway leading from the building parking garage to the employer’s leased office space was part of employer’s premises).


Third, Metro argues that even if Morningstar’s injuries occurred on its premises, those injuries are noncompensable because she was returning from a break. We disagree and determine that the appeals


officer did not err in concluding that the fact that Morningstar was returning to work from a paid lunch break posed no bar to recovery. See Cotton, 121 Nev. at 400-01, 116 P.3d at 58.

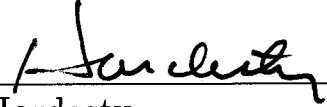
Fourth, Metro contends that Morningstar failed to prove a sufficient nexus between her fall and the conditions of her workplace. The appeals officer received evidence that Metro knew its employees regularly used the stairs, the stairway was poorly lit, and the stairs were prone to becoming slippery. This is substantial evidence, and the officer did not abuse his discretion in determining that this condition posed a compensable employment-related risk. See Rio All Suite Hotel & Casino v. Phillips, 126 Nev. \_\_\_, \_\_\_, 240 P.3d 2, 5 (2010).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Douglas

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Elissa F. Cadish, District Judge  
William F. Buchanan, Settlement Judge  
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Nevada Attorney for Injured Workers/Las Vegas  
Eighth District Court Clerk