

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRAVELERS PROPERTY CASUALTY,
Appellant,
vs.
SUSAN WOODWARD,
Respondent.

No. 42821

FILED

JUL 28 2005

ORDER OF AFFIRMANCE

JANETTE W. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a district court order denying judicial review of the appeals officer's decision awarding workers' compensation benefits to respondent. Eighth Judicial District Court, Clark County; David Wall, Judge.

In October 2002, respondent Suzanne Woodward arrived at the Adobe Mobil Station in Henderson, Nevada, for her shift as a cashier. She tripped over the curb in the Adobe parking lot and fell, injuring her shoulder. She filed a workers' compensation claim.

Appellant Travelers Property Casualty denied Woodward's claim, determining that her injury did not arise out of and in the course of her employment, as required by NRS 616C.150. Woodward administratively appealed, and ultimately, the appeals officer reversed the initial determination and ordered Travelers to provide workers' compensation. The district court denied Travelers' petition for judicial review. Travelers appeals.

This court "review[s] an administrative body's decision for clear error or an arbitrary abuse of discretion."¹ We will not disturb an

¹Construction Indus. v. Chalue, 119 Nev. 348, 352, 74 P.3d 595, 597 (2003).

agency's factual findings that are supported by substantial evidence.² Although questions of law are reviewed de novo,³ "an agency's conclusions of law which are closely related to the agency's view of facts are entitled to deference."⁴

NRS 616B.612(1) requires an employer to provide compensation in accordance with the terms of the Nevada Industrial Insurance Act⁵ for any employee injuries "arising out of and in the course of the employment." NRS 616C.150(1) provides that an injured employee is not entitled to receive workers' compensation unless she establishes by a preponderance of the evidence that her injury arose out of and in the course of her employment.

Travelers argues that Woodward was not "in the course of employment" when she arrived in her employer's parking lot over an hour early for her shift. Travelers contends that Woodward was not engaged in any activity benefiting her employer, and therefore, the district court erred in upholding the appeals officer's final determination awarding benefits.

Generally, under the "coming and going" rule, employees are not entitled to workers' compensation for injuries sustained while

²Bullock v. Pinnacle Risk Mgmt., 113 Nev. 1385, 1388, 951 P.2d 1036, 1038 (1997).

³Id.

⁴SIIS v. Bokelman, 113 Nev. 1116, 1119, 946 P.2d 179, 181 (1997).

⁵NRS Chapters 616A-616D, inclusive.

traveling to or from work.⁶ In our recent opinion in MGM Mirage v. Cotton, however, we adopted a premises-related exception to that rule.⁷ Therefore, an employee injury occurs in the course of employment if an employee sustains an injury on the employer's premises while proceeding to or from work within a reasonable interval before or after work. The employee must also demonstrate that the injury arose out of employment by establishing a causal connection between the workplace environment or workplace conditions and her injuries.⁸

In this case, Woodward tripped over the curb in her employer's parking lot. She had arrived to work early for years and testified that her manager commended her attendance record. Whether an employee is proceeding to or from work within a reasonable interval is a question of fact, and the appeals officer's determination is entitled to deference. Particularly in light of the employer's implicit approval of Woodward's habitual early arrival, the appeals officer could reasonably conclude the premises-related exception applies. Going further, because Woodward's injury was related to a workplace condition, substantial evidence supports the appeals officer's determination that Woodward's injuries also arose out of her employment. We conclude, therefore, that the appeals officer did

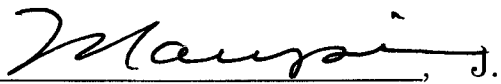
⁶Nev. Industrial Comm. v. Dixon, 77 Nev. 296, 298, 362 P.2d 577, 578 (1961); see also 1 Arthur Larson & Lex K. Larson, Larson's Workers' Compensation Law § 13.01(1) (2004).

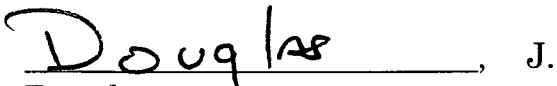
⁷MGM Mirage v. Cotton, 121 Nev. ____, ____ P.3d ____ (Adv. Op. No. 39, July 28, 2005).

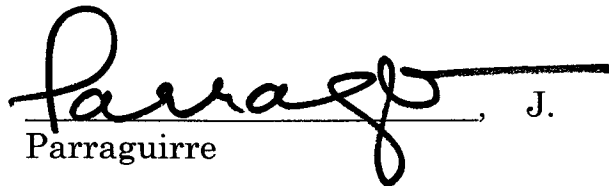
⁸Id.

not abuse her discretion in finding that Woodward is entitled to workers' compensation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. David Wall, District Judge
David H. Benavidez
Edward M. Bernstein & Associates/Las Vegas
Clark County Clerk