

Luteman, Susan

COURSE OF EMPLOYMENT (RCW 51.08.013; RCW 51.08.180(1))

Going and coming rule

Because the school district and the school bus driver entered into an agreement to store a school bus at the worker's residence, the worker's driveway and parking strip are considered part of the employer's jobsite for purposes of the going and coming rule.

...*In re Susan Luteman*, BIIA Dec., 03 17468 (2004)

Scroll down for order.

1 The small school bus that Ms. Luteman operated for the Puyallup School District was
2 parked at the front of her home, adjacent to the street, and in the same position as occupied by a
3 truck and trailer in Exhibit Nos. 3 and 4. From the pictures, it appears that the school bus was not
4 parked on the public right-of-way, but rather on a parking strip adjacent to the street. The bus was
5 parked in this position and at that location (near Ms. Luteman's home) with the school district's
6 agreement because there was insufficient room to park the bus at the school district's facility.
7 While a slight benefit was provided to Ms. Luteman by this arrangement, as she avoided a
8 five-minute commute, the principal beneficiary was the school district. The school district secured
9 storage, not otherwise available, for a vehicle that was used only for transportation of students.
10 Ms. Luteman did not use the school bus to commute to work and did not use it as her personal
11 vehicle. In addition, the bus was parked in Ms. Luteman's driveway, between trips during the day,
12 also with the school district's permission.
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19 Because of the nature of the vehicle and the agreement of the school district, we find that
20 the area where the bus was parked, the driveway and the parking strip, became part of the job site.
21 Because Ms. Luteman was in that area at a time immediate to her work time, and when she was
22 injured, she was acting in the course of employment, and her claim must be allowed.
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25 Careful review of the record, the Proposed Decision and Order, the claimant's Petition for
26 Review, the Department's Notice of Joining Claimant's Petition for Review, and the Self-insured
27 Employer's Response to the Petitions for Review, convinces us that the Department order is correct
28 and must be affirmed.
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31 **FINDINGS OF FACT**

- 32 1. On March 4, 2003, the self-insured employer received an application for
33 benefits, alleging an industrial injury to the claimant on February 12,
34 2003, during the course of her employment with the Puyallup School
35 District. On April 2, 2003, the Department of Labor and Industries
36 issued an order in which it rejected the claim because there was no
37 proof of a specific injury at a definite time and place in the course of
38 employment and the claimant's condition was not the result of an
39 industrial injury as defined by the industrial insurance laws. On April 11,
40 2003, the Department received the claimant's protest to the April 2, 2003
41 order. On May 19, 2003, the Department issued an order in which the
42 Department reversed the April 2, 2003 order and allowed the claim for
43 injury. On July 16, 2003, the Board received the self-insured employer's
44 appeal from the May 19, 2003 order. The claim was assigned Docket
45 No. 03 17468.
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2. On February 12, 2003, the claimant fell on the driveway of her home and sustained an injury that required her to seek medical treatment.
3. At the time of the February 12, 2003 injury, the claimant was walking on the driveway of her home to the school bus parked on the parking strip in front of her home in order to start her workday by performing a "pre-trip" inspection.
4. The Puyallup School District employed the claimant to drive a small school bus that was used to transport special needs children. The bus was parked at the claimant's home pursuant to school district approval because insufficient space was available at the school district's bus storage facility.
5. The school bus was not used by the claimant to go to or from work or for any other purpose than transporting students except for trips to the school district transportation lot for maintenance or repair.
6. The February 12, 2003 injury occurred shortly before 6:50 a.m., the starting time of the claimant's work as she was going to a bus furnished by the Puyallup School District so that she could start her work shift by performing a "pre-trip" inspection.
7. By allowing the claimant to park the district's school bus at her home on the parking strip and in the driveway, and by exercising control over the place where the bus was parked and the manner of use of the bus, the employer has made the area where the bus was parked a part of the job site.

CONCLUSIONS OF LAW

1. The Board of Industrial Insurance Appeals has jurisdiction over the parties to and the subject matter of this appeal.
2. On February 12, 2003, the claimant was acting in the course of her employment, as contemplated by RCW 51.32.010 and RCW 51.08.013(1), with the Puyallup School District when she fell on her driveway and suffered an industrial injury as she was going to work on the job site at a time that was immediate to the actual time of the start of the work day.

1 3. The May 19, 2003 order of the Department of Labor and Industries is
2 correct and is affirmed.
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4 It is so **ORDERED**.

5 Dated this 17th day of May, 2004.
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7 BOARD OF INDUSTRIAL INSURANCE APPEALS
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9
10 /s/ _____
11 THOMAS E. EGAN Chairperson
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14 /s/ _____
15 FRANK E. FENNERTY, JR. Member
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19 /s/ _____
20 CALHOUN DICKINSON Member
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