

## **Redman, Harold**

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

#### **Parking area exclusion (RCW 51.08.013)**

A road which provides access to a parking lot and which is also used for the delivery of materials to the employer's plant is not a "parking area". The exclusion of RCW 51.08.013 is therefore inapplicable to an injury sustained by a worker walking on that portion of the employer's jobsite. ...*In re Harold Redman*, BIA Dec., 43,902 (1975) [dissent]

Scroll down for order.

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS  
STATE OF WASHINGTON

1 IN RE: HAROLD W. REDMAN ) DOCKET NO. 43,902  
2 )  
3 CLAIM NO. G 530857 ) DECISION AND ORDER  
4

5 APPEARANCES:  
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7 Claimant, Harold W. Redman, Pro se  
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9 Employer, Simpson Timber Company, by  
10 Ryan, Bush, Swanson & Hendel, per  
11 David H. Oswald, and Howard Curtis, Safety Supervisor  
12

13 Department of Labor and Industries, by  
14 The Attorney General, per  
15 Joseph A. Albo, Assistant  
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17 This is an appeal filed by the employer on April 3, 1974, from an order of the Department of  
18 Labor and Industries dated March 15, 1974, which adhered to prior orders dated January 23, 1974,  
19 February 8, 1974, and March 1, 1974, allowing the claim and awarding time loss compensation.  
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21 **SUSTAINED.**  
22

23 **DECISION**  
24

25 Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review  
26 and decision on timely Petitions for Review filed by the claimant and the Department of Labor and  
27 Industries to a Proposed Decision and Order issued by a hearing examiner for this Board on August  
28 28, 1974, in which the order of the Department dated March 15, 1974, was reversed, and the claim  
29 remanded to the Department with direction to reject the claim as not coming under the purview of  
30 the Workmen's Compensation Act due to the exclusion of injuries occurring in "parking areas" as  
31 contained in RCW 51.08.013.  
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33 We do not agree with the hearing examiner's proposed disposition of this matter. As we  
34 view the facts, they are as follows:  
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36 At all pertinent times herein the claimant was employed as a maintenance worker, more  
37 accurately described as a millwright, by the Simpson Timber Company in Shelton, Washington. He  
38 reported for work each morning at a building on the employer's premises in which his maintenance  
39 shop was located, referred to as the Veneer Plant, which was L-shaped. A marked roadway skirted  
40 the ends of this building in such a manner as to carve out a roughly triangular piece of land which  
41 was bounded by the marked roadway on the longest side of the triangle, with the other two sides of  
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1 the piece of land being the two walls of the building forming the inside angle of the "L". An  
2 unmarked L-shaped roadway ran parallel to the sides of the building within the triangle. The rest of  
3 the triangular piece of ground consisted of: a parking area for cars belonging to the maintenance  
4 employees, which was marked into stalls by the use of yellow lines; some parking stalls marked off  
5 with yellow lines and situated against one wall of the building itself, for use of supervisory  
6 personnel; and an area against part of the other wall of the building, used for storage of materials  
7 and scrap junk. In order to enter the Veneer building from the parking stalls, the employees were  
8 required to walk across or along the unmarked roadway.  
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13         Shortly prior to the start of his work-shift on December 19, 1973, the claimant parked his car  
14 in the parking area designated for maintenance employees, and was then struck and injured while  
15 walking in the unmarked roadway heading for the door into the Veneer Plant. At the time, he was  
16 some 50 to 60 feet from the door entering the building. He was injured by a vehicle driven by  
17 another employee of Simpson Timber Company, but that employee did not work in the Veneer  
18 Plant and thus presumably would not have been parking his car in the area here involved.  
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22         The specific question before us is whether the claimant was in a "parking area" when he  
23 sustained his injury. If he was in a "parking area" at the time he was injured, his claim for benefits  
24 must be denied by reason of the exclusion of "parking areas" in RCW 51.08.013. If he was not then  
25 in a "parking area", allowance of his claim was proper since all other elements of coverage are  
26 admittedly met.  
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30         The record establishes that the unmarked roadway where the claimant was injured was used  
31 not only by company employees in going to and leaving work in the Veneer Plant, but was also  
32 used by other people in delivering material and supplies to and from the Veneer Plant. This  
33 included other employees of Simpson using company vehicles, as well as employees of motor  
34 freight companies using common carrier trucks, and other non-Simpson service vehicles. There is  
35 no evidence from which we can determine what proportion of the use of this unmarked roadway  
36 was by the employees of the company in gaining ingress and egress to their parking areas at the  
37 beginning and end of their work-shifts, as opposed to its use by others in connection with regular  
38 business and production processes. However, it is apparent that it was used by vehicles delivering  
39 materials and supplies, and for other services, on a regular basis. We can assume that if there had  
40 been no parking area within the triangle, the roadway area would still have been used for delivering  
41 materials to the building and for other production purposes, as well as by other service vehicles.  
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1 We do not agree with the hearing examiner's view that the unmarked roadway was used generally  
2 for parking purposes and that this was its "principal function." This was a multi-purpose area, and  
3 we do not think it is correct to state that the unmarked roadway's principle function was as a "lane"  
4 in connection with parking of employees' cars in their designated stalls. On this point, the  
5 employer's witness, general safety supervisor for Northwest operations, conceded that, among  
6 other uses, the unmarked roadway was a fire lane and thus "would not be a designated parking  
7 area."  
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11 We do not feel the Supreme Court's decision in Olson v. Stern, 65 Wn. 2d 871, is of any  
12 controlling effect here, because of what we deem to be substantially different facts. We conclude  
13 that the claimant in the instant case was not in a "parking area" when injured, but was going to work  
14 on the company's premises outside of a parking area. The Department was correct in allowing this  
15 claim.  
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### 19 **FINDINGS OF FACT**

20 After a careful review of the record, the Board finds as follows:  
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- 22 1. On December 19, 1973, the claimant, Harold W. Redman, sustained  
23 injuries to his left leg and back, requiring medical treatment, when struck  
24 by an automobile operated by a fellow employee on a roadway on the  
25 premises of the Simpson Timber Company, the employer herein. On  
26 December 27, 1973, the claimant filed a report of accident with the  
27 Department of Labor and Industries, and on January 23, 1974, the  
28 Department entered an order awarding time-loss compensation to the  
29 claimant. On February 19, 1974, the employer, Simpson Timber  
30 Company, protested the allowance of the claim. On March 15, 1974,  
31 the Department issued a further order adhering to the previous order  
32 and allowed the claim. On April 3, 1974, the employer filed a notice of  
33 appeal with this Board, and on April 12, 1974, the Board entered an  
34 order granting the appeal.  
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- 36 2. At all pertinent times herein, the claimant was employed as a millwright  
37 by the Simpson Timber Company in Shelton, Washington, and was  
38 required to report to work each morning at the Veneer Plant, an L-  
39 shaped building on the employer's premises. The company had set  
40 aside a small piece of land near the Veneer Plant to be used as a  
41 parking area by millwrights and maintenance personnel. This area was  
42 marked off into stalls by the use of yellow lines.
- 43 3. Between the marked parking area and the veneer Plant, there was an  
44 unmarked roadway that paralleled the two sides of the building on the  
45 inner sides of its "L" shape, and was adjacent to the parking area. This  
46 roadway was used by employees of the company, of which the claimant  
47 was one, in order to gain ingress and egress to their parking area. The

1 same roadway was used by trucks and cars delivering materials and  
2 supplies to and from the Veneer Plant and was also used by vehicles  
3 providing services for the Veneer Plant. Materials and supplies were  
4 delivered to the Veneer Plant on a regular basis. These vehicles were  
5 both Simpson Timber Company vehicles, and vehicles of common  
6 carrier motor freight lines as well as other service vehicles.  
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- 8 4. On December 19, 1973, the claimant arrived for work at the Veneer  
9 Plant, parked his vehicle in a marked stall, in the area provided for his  
10 use, and then was struck and injured on the unmarked roadway, by a  
11 vehicle driven by a fellow employee, while walking toward the door  
12 going into the Veneer Plant building, where he punched in and  
13 performed his millwright duties.

14 **CONCLUSIONS OF LAW**

15 Based on the foregoing findings of fact, the Board concludes as follows:

- 16 1. This Board has jurisdiction of the parties and the subject matter of this  
17 appeal.  
18 2. The claimant was injured on the "jobsite" on December 19, 1973, as  
19 such term is defined in RCW 51.32.015 and RCW 51.36.040.  
20 3. At the time that the claimant was injured on December 19, 1973, he was  
21 not in a "parking area" as defined by RCW 51.08.013, and thus he was  
22 acting in the course of his employment at the time of said injury.  
23 4. The order of the Department dated March 15, 1974, allowing this claim,  
24 is correct and should be sustained.  
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28 It is so ORDERED.

29 Dated this 28th day of August, 1975.

30 BOARD OF INDUSTRIAL INSURANCE APPEALS

31  
32 /s/ \_\_\_\_\_  
33 PHILLIP T. BORK Chairman  
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36 /s/ \_\_\_\_\_  
37 SAM KINVILLE Member  
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39 **DISSENTING OPINION**

40 On the facts of this case, I would affirm the hearing examiner's Proposed Decision and  
41 Order.

42 I have carefully considered all of the testimony, together with all of the exhibits, and am  
43 convinced that Mr. Redman suffered his injuries in the area adjacent to the Veneer building used for  
44 car-parking purposes. I believe that the claimant was injured at a place which was within the  
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1 designated parking area, and he was therefore not in the course of his employment at the time of  
2 injury.  
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4 Dated this 28th day of August, 1975.  
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6 BOARD OF INDUSTRIAL INSURANCE APPEALS  
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8  
9 /s/  
10 R. M. GILMORE Member  
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