

Henneman, Clayton

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

Dual purpose doctrine

When a trip has concurrent business and personal purposes, the worker is in the course of his employment when he is injured during the trip. The business purpose need not be the primary cause of the trip. It is sufficient if someone at some time would have had to make the trip to carry out the business mission. ...*In re Clayton Henneman*, BIIA Dec., 55,132 (1980)

Scroll down for order.

1 is this: If the work of the employee creates the necessity for travel, he is
2 in the course of his employment, though he is serving at the same time
3 some purpose of his own... If, however, the work has had no part in
4 creating the necessity for travel, if the journey would have gone forward
5 though the business errand had been dropped, and would have been
6 cancelled upon failure of the private purpose, though the business
7 errand was undone, the travel is then personal, and personal the risk."
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9 On review before the Board, it is the Department's position that under the dual-purpose rule, the
10 claimant must show that the business purpose, -- i.e., the visit with his banker -- was the "primary"
11 purpose of the trip in order for a compensable claim to obtain.
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13 This contention is conclusively answered and, to our mind, laid to rest by Professor Arthur
14 Larson in his treatise on Workmen's Compensation, to wit at Section 18.13, Volume 1, as follows:
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16 "It is inaccurate and misleading to call this test, as sometimes has been
17 done, the 'dominate purpose' test, or to paraphrase it by saying that the
18 trip is a business trip if the 'primary' purpose is business. Judge
19 Cardozo used no such language. He said it was sufficient if the
20 business motive was a concurrent cause of the trip. He then defined
21 'concurrent cause' by saying that it meant a cause which would have
22 occasioned the making of the trip even if the private mission had been
23 canceled. One detail must be stressed to make this rule complete: it is
24 not necessary, under this formula, that, on failure of the personal motive,
25 the business trip would have been taken by this particular employee at
26 this particular time. It is enough that someone sometime would have
27 had to take the trip to carry out the business mission. Perhaps another
28 employee would have done it; perhaps another time would have been
29 chosen; but if a special trip would have had to be made for this purpose,
30 and if the employer got this necessary item of travel accomplished by
31 combining it with this employee's personal trip, it is accurate to say that
32 it was a concurrent cause of the trip, rather than an incidental
33 appendage or afterthought." (Emphasis Larson's.)
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35 Under the evidence, there can be no question but what the negotiation of a loan extension by the
36 claimant with his banker was a critical item of business. It went to the very survival of the claimant's
37 restaurant. The testimony of Mr. Dan P. Daigle, the claimant's banker, establishes that it is the
38 preferred and normal practice of the bank to re-negotiate loans only through person to person
39 contact in the bank's offices, and that the only reason the claimant was ultimately able to re-
40 negotiate his loan by phone and mail was because of his hospitalization and immobilization from
41 the car accident herein. In other words, but for the car accident and the claimant's unavailability
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1 therefrom, he would have had to travel from Seattle to his bank in Tonasket at some time sooner or
2 later in order to secure an extension of his loan agreement with the bank.
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4 At the time of the accident, the claimant was covering the same distance along the same
5 route that he would have traveled had the trip been undertaken at any other time and had the
6 business with his banker been the sole cause or purpose of the travel.
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8 All told, we hold that the hearing examiner correctly applied the dual-purpose rule to the
9 factual situation presented by this appeal, and that the claim herein is compensable.
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11 The findings and conclusions of the Proposed Decision and Order entered herein are hereby
12 adopted by the Board and incorporated herein by this reference.
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14 It is so ORDERED.
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16 Dated this 14th day of August, 1980.
17

18 BOARD OF INDUSTRIAL INSURANCE APPEALS
19

20 /s/ _____
21 MICHAEL L. HALL Chairman
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23 /s/ _____
24 SAM KINVILLE Member
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45 **FINDINGS OF FACT**
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CONCLUSIONS OF LAW

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