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Definition of “Odd-Lot Worker” Under Idaho’s Workers’ Compensation Law

At some point, most employers will have an employee who is injured on the job. As a result, it is important for employers to have a general understanding of certain basic concepts in Idaho’s Workers’ Compensation Law. One such concept is the so-called “odd-lot worker” rule.

An “odd lot worker” is an employee who is injured to the extent that he/she can perform no services other than those which are so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist. While not totally disabled, odd lot workers are entitled to workers’ compensation benefits and may be treated as if permanently disabled.

Summary of the Case

In August of this year, the Idaho Supreme Court considered a case in which an employee, who had preexisting knee injuries, sought workers’ compensation benefits for a new knee injury which occurred while he was working. The Idaho Industrial Commission determined the employee had a permanent total disability and should be considered an odd lot worker. The Commission apportioned liability for the injury between the workers’ compensation insurer of the employer and the Industrial Special Indemnity Fund (ISIF). ISIF appealed to the Idaho Supreme Court arguing the injured employee should have been considered an odd lot worker before his last accident – since he had been previously injured while working for other employers. The Court disagreed with ISIF, stating that it was the last accident, along with other factors, that placed the employee in odd lot status. Accordingly, the employee was entitled to workers’ compensation benefits for permanent disability.

Background

In June 2003, Perry (“Joe”) Fowble began working as a truck driver for SnoLine Express. During his employment, he struck his knee after slipping and falling while unloading a carton of flowers at Wal-Mart. As a result of the fall, Fowble suffered from a knee injury that did not heal properly even after surgery and rehabilitation.

Prior to the above injury, Fowble had suffered other injuries, some of which had occurred during employment with previous employers. In addition, Fowble could only read at a third grade level and he had few transferable job skills.

Based on the above factors, a referee at the Idaho Industrial Commission determined Fowble was permanently disabled and an odd lot employee after the 2003 injury (but not before). The Idaho Supreme Court agreed.

Definition of Odd Lot Worker

A worker does not have to be literally “totally disabled” or unable to obtain any type of job to be considered an odd lot worker under Idaho’s Workers’ Compensation Law. Instead, if the worker can only perform services so limited in quality, quantity or dependability that no reasonably stable market for those services exists, then an employee is deemed to be an odd lot worker and is considered totally and permanently disabled under Idaho law.

Odd Lot Status

There are three methods for proving odd lot status:

1. Demonstrating the worker attempted to find other types of employment but was unsuccessful;
2. Setting out the type of employment the worker attempted to find; or
3. Showing the worker’s efforts to find suitable employment would be futile.

Practice Pointer

Because employers’ workers’ compensation premiums are affected by the number and severity of on-the-job injuries, it is important to understand basic workers’ compensation principles like the odd lot doctrine.