

SUPREME COURT OF MINNESOTA

Dykhoff v. Xcel Energy

840 N.W.2d 821 (Minn. 2013) · Decided December 26, 2013

SUMMARY

The Minnesota Supreme Court reviewed whether Toni Dykhoff's knee injury, sustained when she fell while attending a required workplace training session, arose out of and in the course of her employment under Minnesota's workers' compensation statute. The court held that the statutory requirements are distinct and rejected a balancing or positional-risk test that would allow one requirement to compensate for deficiencies in the other. Because Dykhoff did not prove that her employment exposed her to an increased risk of injury, the court reversed the Workers' Compensation Court of Appeals and reinstated the compensation judge's denial of benefits.

CASE DETAILS

|                       |                                                                                                                                                                                                            |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Minnesota                                                                                                                                                                                 |
| WRITING FOR THE COURT | Chief Justice Gildea; Justice Lillehaug; Justice Stras                                                                                                                                                     |
| JURISDICTION          | Minnesota                                                                                                                                                                                                  |
| DECIDED               | December 26, 2013                                                                                                                                                                                          |
| DISPOSITION           | reversed                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Xcel Energy sought certiorari review of a Workers' Compensation Court of Appeals decision reversing a compensation judge's denial of Dykhoff's workers' compensation claim.                                |
| STANDARD OF REVIEW    | The Supreme Court reviews the WCCA for clear and manifest error when it rejects findings supported by substantial evidence and substitutes its own findings. Statutory interpretation is reviewed de novo. |
| PRECEDENTIAL VALUE    | Published Minnesota Supreme Court opinion; precedential.                                                                                                                                                   |
| PARTIES               | Xcel Energy v. Toni Dykhoff                                                                                                                                                                                |

TOPICS

- workers compensation
- statutory interpretation
- administrative law
- appellate procedure
- standard of review

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Dykhoff's injury arose out of and in the course of her employment under Minn. Stat. § 176.021.
2. Whether the Workers' Compensation Court of Appeals erred by applying a work-connection balancing test that permitted the strength of the in-the-course-of-employment element to compensate for insufficient proof of the arising-out-of-employment element.
3. Whether the Workers' Compensation Court of Appeals improperly substituted its factual findings for those of the compensation judge.

## HOLDINGS

1. A compensable workers' compensation injury must satisfy two distinct requirements: it must arise out of the employment and occur in the course of the employment. The employee bears the burden of proving both requirements.
2. Dykhoff failed to prove that her injury arose out of her employment because she did not establish that the workplace exposed her to a hazard or risk greater than that encountered in ordinary nonwork life.
3. The court rejected the work-connection balancing test articulated in Bohlin because it improperly treats the arising-out-of and in-the-course-of requirements as alternatives and can relieve an employee of proving one statutory element.

## KEY QUOTATIONS

*"The "arising out of" requirement "connote[s] a causal connection" and the "in the course of" requirement "refers to the time, place, and circumstances of the incident causing the injury." (826)*

*"The work-connection test, in contrast, would allow a court to consider these statutory elements as alternatives—that is, to balance the two factors against each other in a fashion that could relieve the employee of the burden of proof on one element if there is strong evidence of the other element." (830-831)*

*"Because the work-connection test renders either the "arising out of" or the "in the course of" element superfluous and a portion of the statute ineffective, we reject the Bohlin test." (831)*

## FACTUAL BACKGROUND

Toni Dykhoff, a journeyman electrician for Xcel Energy, fell while walking inside Xcel's downtown Minneapolis office to attend a required training session. She claimed that a highly polished linoleum or terrazzo floor was slippery and caused her fall, which dislocated her left patella. The compensation judge found that the floor was clean, dry, flat, and not proven to be slippery, and that her two-inch-heeled shoes were an equally plausible explanation for the fall.

## PROCEDURAL HISTORY

A compensation judge found that Dykhoff's knee injury did not arise out of and in the course of her employment and denied her claim. The Workers' Compensation Court of Appeals reversed, applying a work-connection balancing test. The Minnesota Supreme Court granted certiorari review, reversed the WCCA, and reinstated the compensation judge's decision.

## DISPOSITION

reversed

## REMAND INSTRUCTIONS

The decision of the Workers' Compensation Court of Appeals was reversed and the compensation judge's decision was reinstated.

## CASES CITED

- Dykhoff v. Xcel Energy & CCMSI, 2012 WL 6592145 (Minn. WCCA Nov. 29, 2012)
- Hengemuhle v. Long Prairie Jaycees, 358 N.W.2d 54, 59, 61 (Minn. 1984)
- Gibberd v. Control Data Corp., 424 N.W.2d 776, 779-80, 784 (Minn. 1988)
- Reider v. Anoka-Hennepin Sch. Dist. No. 11, 728 N.W.2d 246, 249 (Minn. 2007)
- Foley v. Honeywell, Inc., 488 N.W.2d 268, 271-72 (Minn. 1992)
- Nelson v. City of St. Paul, 249 Minn. 53, 55-56, 81 N.W.2d 272, 275-76 (1957)
- Hanson v. Robitshek-Schneider Co., 209 Minn. 596, 599, 297 N.W. 19, 21 (1941)
- Olson v. Trinity Lodge No. 282, 226 Minn. 141, 147-48, 32 N.W.2d 255, 259 (1948)
- Barlau v. Minneapolis-Moline Power Implement Co., 214 Minn. 564, 578-79, 9 N.W.2d 6, 13 (1943)
- Kirchner v. County of Anoka, 339 N.W.2d 908, 910-11 (Minn. 1983)
- O'Rourke v. N. Star Chems. Inc., 281 N.W.2d 192, 194 (Minn. 1979)
- Auman v. Breckenridge Tel. Co., 188 Minn. 256, 258, 246 N.W. 889, 890 (1933)
- Blanchard v. Koch Ref. Co., 282 N.W.2d 495, 496 (Minn. 1979)
- Stibbs v. Nw. Airlines, Inc., 277 Minn. 248, 252, 152 N.W.2d 318, 321 (1967)
- Bohlin v. St. Louis Cnty./Nopeming Nursing Home, 61 Minn. Workers' Comp. Dec. 69, 79 (WCCA 2000), aff'd without opinion, 621 N.W.2d 459 (Minn. 2001)
- Milledge v. Oaks, 784 N.E.2d 926, 931-33 (Ind. 2003)
- Logsdon v. Isco Co., 260 Neb. 624, 618 N.W.2d 667, 674-75 (2000)
- Am. Family Ins. Grp. v. Schroedl, 616 N.W.2d 273, 277 (Minn. 2000)
- Amaral v. Saint Cloud Hosp., 598 N.W.2d 379, 384 (Minn. 1999)
- Fetzer v. N.D. Workforce Safety & Ins., 815 N.W.2d 539, 543 (N.D. 2012)
- Bookman v. Lyle Culvert & Road Equipment Co., 153 Minn. 479, 481, 190 N.W. 984, 984 (1922)
- Locke v. County of Steele, 223 Minn. 464, 27 N.W.2d 285 (1947)
- Krause v. Swartwood, 174 Minn. 147, 148-49, 218 N.W. 555, 556 (1928)

- *Kaletha v. Hall Mercantile Co.*, 157 Minn. 290, 293, 196 N.W. 261, 262 (1923)
- *Breimhorst v. Beckman*, 227 Minn. 409, 421-22, 35 N.W.2d 719, 728 (1949)
- *Bloomquist v. Johnson Grocery*, 189 Minn. 285, 286, 249 N.W. 44, 44 (1933)
- *Fogarty v. Martin Hotel Co.*, 257 Minn. 398, 402, 101 N.W.2d 601, 604 (1960)

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