STATE OF MICHIGAN

COURT OF APPEALS

SHAYE FRANCEK,

Plaintiff-Appellant,

v

KDE, INC.,

Defendant-Appellee.

UNPUBLISHED
September 4, 1998

No. 201316
St. Clair Circuit Court
LC No. 96-000651-NO

Before: Markman, P.J., Saad and Hoekstra, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting defendant's motion for summary disposition on plaintiff's claim of negligence pursuant to MCR 2.116(C)(10). After finding that plaintiff was in the process of checking his work schedule at the time of his injury in defendant's workplace, the trial court dismissed the case, concluding that his claim was barred by the exclusive remedy provision of the Michigan Worker's Disability Compensation Act, MCL 418.131(1); MSA 17.237(131)(1) ("WDCA"). We affirm.

On June 17, 1993, plaintiff sustained serious injury to his knee when he slipped and fell in a puddle of water on the floor of defendant's McDonalds restaurant. Plaintiff was injured in a part of the restaurant not generally accessible to anyone except for defendant's employees. Although plaintiff was an employee of the restaurant, and en route to check his work schedule, he was not working at the time and alleged that he had also come in to eat at the restaurant. Plaintiff argues that his injury is not covered under the exclusive remedy provision of the worker's compensation law, maintaining that, although his injury "arose out of" his employment, it did not occur "in the course of" his employment.

Generally, when an employee suffers a personal injury "arising out of" and "in the course of" employment, the employee's exclusive remedy against its employer is recovery of benefits under the WDCA. *Goff v Bil-Mar Foods, Inc (After Remand),* 454 Mich 507, 510; 563 NW2d 214 (1997). Injuries "arising out of" and "in the course of" employment also immunize an employer from tort liability, with the exception of intentional torts. *Simkins v General Motors (After Remand),* 453 Mich 703, 711; 556 NW2d 839 (1996). The Workers' Compensation Bureau generally has exclusive jurisdiction

to determine whether an employee suffered an injury

"in the course of employment," *Amerisure Ins Co v Time Auto Transportation, Inc,* 196 Mich App 569, 572; 493 NW2d 482 (1992). However, because the parties did not dispute the facts of this case for purposes of the motion for summary disposition, this is a question of law which was properly considered by the trial court. *Zarka v Burger King,* 206 Mich App 409, 411; 552 NW2d 650 (1994). Pursuant to MCR 2.116(C)(10), a party is entitled to summary disposition when there is no genuine issue of material fact and judgment may be entered as a matter of law. The trial court, in determining whether there is a genuine issue of material fact, must draw all inferences in favor of the nonmoving party. *Bertrand v Alan Ford, Inc,* 449 Mich 606, 617-618; 537 NW2d 185 (1995).

Acquiring one's work schedule is analogous to acquiring one's paycheck. "Receiving remuneration" for one's work constitutes a part of one's employment relationship and, therefore, when an employee visits the worksite to receive his paycheck, he is acting in the course of his employment. See *Dunlap v Clinton Valley Center,* 169 Mich App 354, 357; 425 NW2d 553 (1988). We conclude that plaintiff's act of acquiring his work schedule also constitutes part of his employment relationship because such schedule is acquired so that an employee knows when to report for work. Although plaintiff argued that he also intended to purchase food at retail prices when he entered the restaurant, this intention is irrelevant because plaintiff's injury occurred while he was engaged in an employee-employer relationship. *Zarka v Burger King,* 206 Mich App 409, 411; 522 NW2d 650 (1994), lv den 448 Mich 877 (1995). Nor did the injury occur in a part of the restaurant normally accessible to the restaurant's customers. Because plaintiff was en route to check his schedule at the time of his injury, we find that plaintiff's injury occurred "within the course, the flow, and route" of his employment. *MacDonald v Michigan Bell Telephone Co,* 132 Mich App 688, 692; 348 NW2d 12 (1984).

We also find that defendant derived "some special benefit," *Camburn v Northwest School Dist (On Remand),* 220 Mich App 358, 365; 559 NW2d 370 (1996), from plaintiff's act of checking his schedule because an employer benefits from having its employees report for work on time. Therefore, there was a sufficient nexus between plaintiff's injury while en route to check his work schedule and his employment to conclude that his injury resulted as a function of his employment. *Illes v Jones Transfer Co (On Remand),* 213 Mich App 44, 51; 539 NW2d 382 (1995). Accordingly, we hold that plaintiff's injury was covered under the exclusive remedy provision of the WDCA and that the trial court properly granted defendant's motion for summary disposition.

Because plaintiff's claim is covered by the exclusive remedy provision, we do not find it necessary to address the parties' arguments regarding "open and obvious dangers."

Affirmed.

/s/ Stephen J. Markman
/s/ Henry William Saad
/s/ Joel P. Hoekstra