STATE OF MICHIGAN

COURT OF APPEALS

ELIZABETH A. SIMKINS,

Plaintiff-Appellant,

and

VALLEY FORGE INSURANCE COMPANY,

Intervening Plaintiff-Appellant,

v

GENERAL MOTORS CORPORATION and SECOND INJURY FUND,

Defendants-Appellees.

UNPUBLISHED
November 16, 1999

Nos. 214553 & 214554
WCAC
LC No. 00000219

Before: O'Connell, P.J. and Talbot and Zahra, JJ,

PER CURIAM.

Plaintiff and intervening plaintiff appeal as on leave granted after remand from the Supreme Court the decision of the Worker's Compensation Appellate Commission denying disability benefits. We affirm.

In *Simkins v General Motors Corp,* 453 Mich 703; 556 NW2d 839 (1996), the Supreme Court refined the exception to the general rule that an employee who is injured while going to or coming from work cannot receive worker's compensation benefits. MCL 418.301(3); MSA 17.237(301)(3) creates a presumption that an injury sustained on the employer's premises within a reasonable time before or after work is in the course of employment.

After reviewing the case law, the Court held that when an employee is going to work or coming from work, an injury that occurs on property not owned, leased, or maintained by his employer is in the course of employment only if the employee is traveling in a reasonably direct route between the parking area owned, leased, or maintained by the employer and the worksite itself. *Id,* 723. A reasonably

direct route is defined as a path that the employer, in designating an area for parking, could reasonably anticipate that an employee would take. *Id*, n 33. This rule was intended to conform with the original purpose underlying the going-and-coming provision: to protect employees while on the employer's premises but no longer actually performing their jobs. *Id*, 724. The rule limits the employer's responsibility to situations where the employer has some control or responsibility over the area. *Id*.

The Supreme Court determined that a remand to the appellate commission was necessary where the stipulated facts were silent as to plaintiff's reason for traveling to a private parking lot on her way between the company lot and the plant, and the stipulation did not explain whether this was a reasonably direct route. The Court directed the commission to provide the parties with a full opportunity to present additional facts regarding these issues. *Id*, 726.

On remand, both sides filed briefs presenting additional facts, which were accepted by the commission as testimony. The commission observed that if plaintiff had parked in the private lot with her companion, she clearly would not have been entitled to benefits. Reviewing the evidence, the commission concluded that the private lot was not on a reasonably direct path between the worksite and an employer maintained lot. Even if the lot were closer to the plant gate than the employer's lot, the employer could not have reasonably anticipated plaintiff's deviation to the private lot. Taking the facts in a light most favorable to plaintiff, the commission concluded that she had failed to establish a compensable injury under the rule of law outlined by the Supreme Court.

This Court's review in worker's compensation cases is limited to questions of law. Findings of fact made or adopted by the WCAC are conclusive on appeal, absent fraud, if there is any competent evidence in the record to support them. *Layman v Newkirk Electric Associates, Inc*, 458 Mich 494, 498; 581 NW2d 244 (1998). A decision of the WCAC is subject to reversal if the commission operated within the wrong legal framework or if the decision was based on erroneous legal reasoning. *Bates v Mercier*, 224 Mich App 122, 124; 568 NW2d 362 (1997).

There is competent evidence to support the commission's finding that the injury did not occur while plaintiff was traveling on a reasonably direct path between the worksite and the parking lot maintained by the employer. Plaintiff was injured crossing mid-block from a private parking lot to a plant gate. While the entrance was the closest to her work site at the plant, and plaintiff obtained the ride to get closer to that entrance, there was no showing that her employer should take control and responsibility for a mid-block crossing from a private parking lot to the south plant entrance where plaintiff parked on the north side of the plant. Defendant could not reasonably anticipate that its employees would park in the north lot, then travel to the plant entrance from a private lot across from a south entrance to the plant.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael J. Talbot
/s/ Brian K. Zahra