[Cite as *Lafon v. Iron Tiger Logistics*, 2015-Ohio-2428.]

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CLARK COUNTY

JEFFREY LAFON	:	
	:	
Plaintiff-Appellant	:	Appellate Case No. 2015-CA-11
	:	
v.	:	Trial Court Case No. 2014-CV-501
	:	
IRON TIGER LOGISTICS	:	(Civil Appeal from
	:	Common Pleas Court)
Defendant-Appellee	:	
	:	

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O P I N I O N

Rendered on the 19th day of June, 2015.

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ARTHUR C. GRAVES, Atty. Reg. No. 0031027, 2929 Kenny Road, Suite 295, Columbus, Ohio 43221
Attorney for Plaintiff-Appellant

ROBERT C. MEYER, Atty. Reg. No. 0014955, JONATHAN D. DECKER, Atty. Reg. No. 0089638, 6269 Frank Avenue NW, North Canton, Ohio 44720
Attorneys for Defendant-Appellee

AMANDA B. BROWN, Atty. Reg. No. 0075651, Assistant Attorney General-Ohio Bureau of Workers' Compensation Section, 150 East Gay Street, 22nd Floor, Columbus, Ohio 43215
Attorney for Defendant-Appellee-BWC

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WELBAUM, J.

{¶ 1} Plaintiff-appellant, Jeffrey Lafon, appeals from the decision of the Clark County Court of Common Pleas granting summary judgment in favor of defendant-appellee, Iron Tiger Logistics, Inc., on his claim for workers' compensation benefits. After a thorough review of the record, we find the trial court properly concluded that Lafon was not entitled to such benefits because the personal injury he sustained did not arise out of his employment. Accordingly, the judgment of the trial court will be affirmed.

{¶ 2} Lafon was employed as a "yard man" at Iron Tiger Logistics, Inc. ("Iron Tiger"), a business that transports new trucks from manufacturers to third parties. Lafon worked at Iron Tiger's Springfield, Ohio terminal, where new trucks are transported in a "piggyback fashion" to various locations nationwide. As a "yard man," Lafon was responsible for moving trucks to their ready position and then moving finished products to their assigned places in the yard.

{¶ 3} On October 2, 2013, Lafon was climbing into a company shuttle bus when he tripped on his untied shoelaces and fell forward. As a result of the fall, Lafon's right shoulder was injured. After the injury, Lafon filed a claim for workers' compensation benefits with the Ohio Bureau of Workers' Compensation ("BWC"). Lafon's claim was initially allowed following a hearing before the Industrial Commission's District Hearing Officer, with the Industrial Commission's Staff Hearing Officer later affirming that decision. However, after Iron Tiger appealed the decision, the Commissioners of the Industrial Commission unanimously vacated the allowance and denied Lafon's claim in its entirety. In reaching this decision, the Commissioners concluded that Lafon's injury did not arise

out of his employment with Iron Tiger.

{¶ 4} On August 14, 2014, Lafon filed an appeal from the Industrial Commission's decision to the Clark County Court of Common Pleas pursuant to R.C. 4123.512. Iron Tiger and BWC then filed motions for summary judgment arguing that Lafon's injury did not arise out of his employment, but instead, precipitated from his untied shoelaces. The trial court agreed, and by order dated January 16, 2015, the trial court granted summary judgment in favor of Iron Tiger.

{¶ 5} Lafon now appeals from the trial court's decision granting Iron Tiger summary judgment, raising the following assignment of error for review.

THE TRIAL COURT ERRED IN SUSTAINING THE MOTION FOR SUMMARY JUDGMENT FILED ON BEHALF OF THE DEFENDANT.

{¶ 6} Under his sole assignment of error, Lafon contends the trial court erred in granting summary judgment in favor of Iron Tiger on his workers compensation claim. Specifically, Lafon claims the trial court improperly concluded that his injury did not arise out of his employment. We disagree.

{¶ 7} Summary judgment may be granted when the moving party demonstrates that: (1) there is no genuine issue of material fact; (2) the moving party is entitled to judgment as a matter of law; and (3) viewing the evidence most strongly in favor of the nonmoving party, reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made. Civ.R. 56(C); *State ex rel. Grady v. State Emp. Relations Bd.*, 78 Ohio St.3d 181, 183, 677 N.E.2d 343 (1997); *Harless v. Willis Day Warehousing Co.*, 54 Ohio St.2d 64, 66, 375 N.E.2d 46 (1978).

{¶ 8} "When reviewing a summary judgment ruling made by a court of common pleas from an appeal of a decision by the Industrial Commission, an appellate court applies the same standard used to review any other summary judgment ruling." (Citation omitted.) *Sammetinger v. Kirk Bros. Co., Inc*., 3d Dist. Logan Nos. 8-09-15, 8-09-16, 2010-Ohio-1500, ¶ 20. A de novo standard is used to determine whether a trial court properly granted summary judgment. *Grafton v. Ohio Edison Co*., 77 Ohio St.3d 102, 105, 671 N.E.2d 241 (1996). "Therefore, the trial court's decision is not granted any deference by the reviewing appellate court." (Citation omitted.) *Harris v. Dayton Power & Light Co*., 2d Dist. Montgomery No. 25636, 2013-Ohio-5234, ¶ 11.

{¶ 9} As noted above, the present case concerns a claim for workers' compensation, which is governed under Chapter 4123 of the Ohio Revised Code. R.C. 4123.01(C) defines a compensable injury as: "any injury, whether caused by external accidental means or accidental in character and result, received in the course of, and arising out of, the injured employee's employment." Thus, to be a compensable injury, the injury must occur "in the course of" and "arising out of" the claimant's employment. *Bralley v. Daugherty*, 61 Ohio St.2d 302, 303, 401 N.E.2d 448 (1980). Both of these prongs must be satisfied before compensation is allowed, and they are to be liberally construed in favor of awarding benefits. *Fisher v. Mayfield*, 49 Ohio St.3d 275, 277-278, 551 N.E.2d 1271 (1990).

{¶ 10} In *Taylor v. Meijer, Inc*., 182 Ohio App.3d 23, 2009-Ohio-1966, 911 N.E.2d 344 (2d Dist.), we explained each prong as follows:

> The "in the course of employment" element of R.C. 4123.01(C) contemplates the existence of a nexus between the employment and the

injurious activity based on factors such as the time, place, and circumstances of the injury. * * * An employee need not necessarily be injured in the actual performance of work to be in the course of employment and thus eligible for workers' compensation. * * * It is sufficient that the injury is sustained while the employee engages in an "activity that is consistent with the contract for hire and is logically related or is incidental to the employer's business." [*Masden v. CCI Supply, Inc*., 2d Dist. Montgomery No. 22304, 2008-Ohio-4396, ¶ 8, citing *Sebek v. Cleveland Graphite Bronze Co.*, 148 Ohio St. 693, 76 N.E.2d 892 (1947), paragraph three of the syllabus.]

The "arising out of employment" element "contemplates a causal connection between the injury and the employment" based on the totality of the circumstances. [*Fitch v. Ameritech Corp.*, 10th Dist. Franklin No. 05AP-1277, 2007-Ohio-2725, ¶ 15, citing *Ruckman v. Cubby Drilling, Inc*., 81 Ohio St.3d 117, 121, 689 N.E.2d 917 (1998)]. This standard ensures that employees are only compensated when their injuries are causally related to the activities, conditions, and environment of their employment. * * * Whether there is a sufficient causal connection between an employee's injury and his employment to justify participation in the Workers' Compensation Fund depends on the totality of the facts and circumstances surrounding the accident, including the proximity of the scene of the accident to the place of employment, the degree of control the employer had over the scene of the accident, and the benefit the employer received

> from the injured employee's presence at the scene of the accident. [*Fisher v. Mayfield*, 49 Ohio St.3d 275, 277, 551 N.E.2d 1271 (1990), citing *Lord v. Daugherty*, 66 Ohio St.2d 441, 423 N.E.2d 96, (1981), syllabus; *Masden* at ¶ 13]. However, this list of factors is not intended to be exhaustive. [*Fisher* at 279, fn. 2]. Because workers' compensation cases are fact specific, no one test or analysis can apply to each and every factual possibility. * * * Accordingly, a flexible and analytically sound approach is preferable, for hard and fast rules can lead to unsound and unfair results. [*Masden*, citing *Fisher* at 280].

Taylor, 182 Ohio App.3d 23, 2009-Ohio-1966, 911 N.E.2d 344 at ¶ 13-14.

{¶ 11} Accordingly, " '[t]he test of the right to participate in the Workers' Compensation Fund is not whether there was any fault or neglect on the part of the employer or his employees, but whether a "causal connection" existed between an employee's injury and his employment either through the activities, the conditions or the environment of the employment.' " (Citations omitted.) *Fisher*, 49 Ohio St.3d at 276-277, 551 N.E.2d 1271, quoting *Bralley*, 61 Ohio St.2d at 303, 401 N.E.2d 448.

{¶ 12} In this case, Iron Tiger concedes that Lafon can arguably demonstrate his injury occurred in the course of his employment since he was boarding the company's shuttle bus at the time he fell. However, as noted above, Lafon must also demonstrate his injury arose out of his employment by showing a "causal connection" between his injury and his employment. *Taylor* at ¶ 14; *Fisher* at 276-277.

{¶ 13} In *Underwood v. Midwest Stamping & Mfg.*, 6th Dist. Williams No. WM-97-030, 1998 WL 472322 (Aug. 7, 1998), an employee filed a workers'

compensation claim after he tripped and fell over his shoelaces as he was walking away from his workstation to take a lunch break. *Id*. at *1. The Sixth District Court of Appeals found an insufficient causal connection between the injury and employment because the employer had no control over the employee's shoelaces and also received no benefit from the employee's movement. *Id*. at *2. Accordingly, the court found that the employee's injury did not arise out of his employment. *Id*.

{¶ 14} Similarly, in *Anderson v. Sherwood Food Distrib*., 8th Dist. Cuyahoga No. 86164, 2006-Ohio-101, an employee was required to wear heavy-duty work boots, which the employee chose for himself and had approved by his employer. *Id*. at ¶ 2. The employee filed a workers' compensation claim after the boots caused an ulcerated blister to form on his big toe. *Id*. The Eighth District Court of Appeals held that while the employee suffered the blister in the course of his employment, there was no evidence demonstrating that the employment itself caused the blister. *Id.* at ¶ 4-6. Rather, the evidence demonstrated the blister was caused by the defective nature of the boot chosen by the employee. *Id.* at ¶ 6. Accordingly, the grant of summary judgment in favor of the employer was upheld by the appellate court. *Id*. at ¶ 11.

{¶ 15} *Underwood* and *Anderson* are analogous to the present case. Here, Lafon admits that he fell and sustained an injury to his shoulder upon tripping over his untied shoelaces as he was climbing into a company shuttle bus. *See* Memorandum Contra Motion for Summary Judgment: Plaintiff's Exhibit B - Admission Responses, Clark County Court of Common Pleas Case No. 14 CV 0501, Docket No. 11, p. 13. He also admits that his fall was not due to any defect in the steps of the shuttle bus. *Id*. While Lafon's movement of climbing into the shuttle bus was beneficial to Iron Tiger in that Lafon was

attempting to put himself in a position to conduct work, there is no question that Iron Tiger did not have control over Lafon's shoelaces being untied and that it was the untied shoelaces that precipitated his fall, not a condition of his employment or work environment. Therefore, because Lafon's untied shoelaces caused the fall, there is an insufficient causal connection between Lafon's injury and his employment with Iron Tiger to conclude that the injury arose out of his employment.

{¶ 16} In so holding, we note that the cases Lafon cites in support of his workers' compensation claim, *Waller v. Mayfield*, 37 Ohio St.3d 118, 524 N.E.2d 458 (1988) and *Indus. Comm. of Ohio v. Nelson*, 127 Ohio St. 41, 186 N.E. 735 (1933), concern employees who sustained injuries or death after falling for unexplained reasons or due to seizures that are out of the employee's control. These cases are distinguishable because Lafon's fall did not result from an idiopathic cause, but rather, from his untied shoelaces, something which was entirely within his control. Accordingly, the foregoing line of cases simply do not apply here.

{¶ 17} Because Lafon's injury did not arise out of his employment, the trial court correctly granted summary judgment in favor of Iron Tiger on Lafon's workers' compensation claim. Therefore, Lafon's sole assignment of error is overruled and the judgment of the trial court is affirmed.

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DONOVAN, J. and HALL, J., concur.

Copies mailed to:

Arthur C. Graves
Robert C. Meyer

Jonathan D. Decker
Amanda B. Brown
Hon. Douglas M. Rastatter