IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT JACKSON
October 27, 2014 Session

JAMES AUTWELL v. BACK YARD BURGERS, INC.[1] ET AL.

Appeal from the Circuit Court for Shelby County
No. CT00250412 Robert L. Childers, Judge

No. W2014-00232-SC-R3-WC - Mailed February 4, 2015; Filed March 16, 2015

The employee was injured in a motor vehicle accident while driving from doing a personal task in Alabama to a meeting for his employer in Mississippi. The employer denied his workers' compensation claim, so the employee filed this lawsuit. The trial court awarded benefits based on a finding that the claimant was a "traveling employee." Its holding also implied, in the alternative, that the employee was on a "special errand" for the employer. The employer has appealed. The appeal has been referred to the Special Workers' Compensation Appeals Panel for a hearing and a report of findings of fact and conclusions of law pursuant to Tennessee Supreme Court Rule 51. We conclude that the injury did not arise from or in the course of the employment, and therefore, reverse the award of benefits to the employee.

Tenn. Code Ann. § 50-6-225(e) (2008 & Supp. 2013) Appeal as of Right; Judgment of the Circuit Court Reversed

HOLLY KIRBY, J., delivered the opinion of the Court, in which TONY A. CHILDRESS and DONALD E. PARISH, JJ., joined.

Garrett M. Estep, Memphis, Tennessee, for the appellant, Wausau Underwriters Insurance Company.

Shannon D. Elsea, Memphis, Tennessee, for the appellee, James Autwell.

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[1] Back Yard Burgers, Inc. was named as a defendant in this action. While the case was pending, it filed for bankruptcy. A consent order was entered dismissing all claims against Back Yard Burgers, and the case proceeded against Wausau Underwriters Insurance Company only. The trial court continued to use the original caption, and we have done the same.

OPINION

Facts and Proceedings Below

The pertinent facts in this case are undisputed. James Autwell ("Employee") was hired by Back Yard Burgers, Inc. ("Employer") as a District Manager in 2008. Employee lived in Cordova, Tennessee, a suburb of Memphis,[2] and managed several Backyard Burger store locations in the greater Memphis area. In the summer of 2011, he managed four store locations in Memphis and three in northern Mississippi, namely, Batesville, Southaven, and Olive Branch.

In September 2011, Employee accepted an offer from Employer to become a franchise owner of three Florida locations (Panama City, Fort Walton, and Destin). At the time, Employee was living with his ex-wife Cynthia Autwell. She refused to move to Florida and instead chose to move near her family in Albertville, Alabama.

In order to assist Ms. Autwell in the move to her new home in Alabama, Employee scheduled himself for two days off work, Saturday and Sunday, September 17 and 18, 2011.[3] It is undisputed that this was a purely personal trip.

In order to take on his new responsibilities in Florida, Employee had to transfer the Olive Branch, Mississippi location to another District Manager. To accomplish that, Employee agreed to meet with the new District Manager in Olive Branch on Monday, September 19, 2011, to conduct an audit and transfer that store location. Before he made his personal trip to Alabama, Employee knew that he would be required to transfer the Olive Branch store on that Monday.

Employee traveled to Alabama and moved his ex-wife into her new home. Before leaving Alabama on the morning of Monday, September 19, 2011, Employee did some work on his company laptop computer and made some business phone calls. He then got into his car to go to the Olive Branch location, which was still under his management until the transfer to the new District Manager was effected. While traveling near Corinth, Mississippi, on the way to Olive Branch, Employee swerved to avoid a dog in the road. His vehicle rolled down an embankment. He suffered a compound fracture of his left ankle, among other injuries.

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[2] Much of Cordova, Tennessee has been annexed by the City of Memphis.

[3] Employee did not need permission from anyone at Backyard Burgers to schedule this time off.

Employee made a claim to Employer for workers' compensation benefits for the injuries he suffered in the Corinth, Mississippi accident. The Employer denied the claim on the basis that Employee's injuries did not arise from or in the course of his employment.

On January 5, 2012, Employee filed a Request for Assistance with the Tennessee Department of Labor and Workforce Development. On June 12, 2012, the Department issued a report declaring that the Benefit Review process was exhausted as of April 5, 2012. Employee filed this action on June 7, 2012. The trial court conducted the trial in this matter on November 25, 2013. The majority of the evidence submitted at trial was Employee's testimony.

In his testimony, Employee described his typical workday and explained how he determined his schedule each day:

> The stores we are responsible for, we get numbers. They close them out at night. We log on our computer. It takes anywhere from an hour to two hours depending on what all you can see. You look at the figures and you see where there might be a troubled area or store or whatever. Then that's how we make our schedule. Time management in this business is very important. And then that's where you make your decision what stores you need to visit. You know, I was over several stores.

Employee explained that, normally, he reviewed the financial reports when he woke up, then bathed, dressed and had breakfast. He then answered emails and made business-related telephone calls. The rest of his day was usually spent in the field, traveling among the stores under his supervision. Employee asserted that he was "on call" at all times and "never turn[ed] [his] phone off." He estimated that he typically worked approximately 65 hours a week. In a given day, he said, excluding computer time, he might work as few as seven hours or as many as twelve hours. He added, "It's just not a punch a clock [job]," and noted that there had been occasions when he had to travel to a store at midnight because of a robbery.

Before the accident, Employee testified, his district consisted of stores in Memphis and northern Mississippi.[4] He drove his own vehicle for work and put approximately 20,000 to 25,000 work-related miles on his car each year. As part of his compensation, he received a car allowance and was paid for this business mileage. Employee conceded that, while he received mileage reimbursement for travel from store to store, he "didn't claim business

[4] Nothing in the record suggests that Employee traveled regularly to Florida to supervise those stores prior to the accident in question.

mileage going from [his] home." Employee was not required to report when he chose to take days off; he just had another district manager oversee his stores. However, prior to his trip to Alabama to move his ex-wife, he informed his supervisor of the planned trip.

In his testimony at trial, Employee asserted that his travel to Olive Branch the morning of September 19, 2011, had been directed by his supervisor, Andy Abbajay. He claimed that he was instructed to meet the new District Manager, Tonya Durance, and complete the transfer of management responsibilities in Olive Branch by September 19th. He described the arrangements for the meeting:

> We e-mailed and [Mr. Abbajay] said that you can meet with Tonya Durance. I said to turn the store over to her there are certain things that you do, that you sign off on when you transfer a store, a specific store. I was scheduled to leave out Tuesday for Florida.
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> The district managers are going to be over that store. They have certain forms and what they do especially with cash, they verify the amount of cash that's in the petty cash safe. There is a basic inventory, not of every small item, but just a basic inventory that can take as long as three hours. It can take two hours. It depends on the situation. I was to meet Ms. Durance around lunchtime.
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> Mr. Boyd James, the previous week sometime we had talked about it and everything. And then he said well, when can you meet with Tonya? Y'all can meet. They had to coordinate with Ms. Durance also. To meet her on this date, the 19th of September around lunchtime. I don't know if there was a specific, like 11 o'clock, just around lunch.

Pursuant to these instructions, on Monday, September 19, 2011, Employee followed his usual Monday morning routine. He checked his reports and emails and made initial telephone calls from his ex-wife's new home in Albertville, Alabama, rather than his home in Cordova, Tennessee. After completing these tasks, Employee left to drive to Olive Branch, Mississippi, to meet Ms. Durance and transfer supervision of that store location to her, a drive of approximately three and a half to four hours. Employee acknowledged that he had no business reason for being in either Albertville, Alabama or Corinth, Mississippi, and but for his decision to move Ms. Autwell to Alabama that weekend, he would not have been driving through Corinth that Monday. In the normal course of events, Employee conceded, on the morning of Monday, September 19, he would have traveled to Olive Branch from his home in Cordova.

At the conclusion of the proof, the trial court issued findings and conclusions from the bench, which were later incorporated into a written order. The trial court held that Employee was a "traveling employee" because he "did part of his work from his home or wherever he happened to be at the time," and "based on the number of miles that [Employee] traveled each year for the employer and that he was a district manager, responsible for ten different stores, and that he was on-call 24/7 for his employer." The trial court found that Employee was driving through Corinth, Mississippi, that Monday pursuant to an order from the company vice-president.

On that basis, the trial court concluded that Employee had suffered a compensable injury that arose in the course of his employment. It awarded temporary total disability benefits, ordered the payment of certain medical expenses, and awarded permanent partial disability benefits of 80% to the left leg. Employer now appeals.

Issues Presented and Standard of Review

On appeal, Employer argues that the trial court erred in holding Employee was entitled to workers' compensation benefits due to the injury he sustained as a result of the car accident. It contends that, by finding that Employee sustained a compensable injury, the trial court incorrectly applied Tennessee Code Annotated § 50-6-102(12) (2008 & Supp. 2010) to the undisputed facts.[5]

In response, Employee maintains he was a "traveling employee," as found by the trial court. In the alternative, he argues that the trial court in effect found that he was on a "special errand" for Employer at the time of the accident, and thus, would be entitled to workers' compensation benefits on that basis. In addition, Employee argues the trial court erred in failing to consider the injury and impairment rating assigned to his back and apportion this injury to his body as a whole.

As the facts in this appeal are not disputed, we need only interpret the pertinent statute and apply it to those facts. This is purely a question of law, so we review the trial court's

[5] At the time relevant to this appeal, Section 50-6-102(12) defined 'Injury' and 'personal injury' as "an injury by accident arising out of and in the course of the employment that causes either disablement or death of the employee[.]" See Tenn. Code Ann. § 50-6-102(12) (2008 and Supp. 2010). We note that, since this appeal, the definition of "injury" has been amended. However the amendment applies only to injuries occurring after July 1, 2014. Tenn. Code Ann. § 50-6-102(13) (2014) (as amended by 2013 Tennessee Laws Pub. ch. 289, § 5 (S.B. 200)) .

conclusion *de novo* and apply no presumption of correctness to the trial court's "application of law to the facts, or to conclusions that are based on undisputed facts." Massey-Holt v. Holt, 255 S.W.3d 603, 607 (Tenn. Ct. App. 2007) (citing Taylor v. Fezell, 158 S.W.3d 352, 357 (Tenn. 2005); State v. Thacker, 164 S.W.3d 208, 248 (Tenn. 2005)); see also Seiber v. Reeves Logging, 284 S.W.3d 294, 298 (Tenn. 2009).

Analysis

Under Tennessee Code Annotated § 50-6-102(12), in order for an injury to be compensable under the Tennessee Workers' Compensation Act, the injury must occur "in the course of the employment," among other requirements. Tenn. Code Ann. §§ 50-6-102 (12) (2008 & Supp. 2010), 50-6-103(a) (Supp. 2012); Wait v. Travelers Indem. Co. of Ill., 240 S.W.3d 220, 225 (Tenn. 2007). "An injury occurs in the course of employment 'when it takes place within the period of the employment, at a place where the employee reasonably may be, and while the employee is fulfilling work duties or engaged in doing something incidental thereto.'" Wait, 240 S.W.3d at 226 (quoting Blankenship v. Am. Ordnance Sys., L.L.S., 164 S.W.3d 350, 354 (Tenn. 2005); 1 Arthur Larson & Lex K. Larson, Larson's Workers' Compensation Law § 12 (2004)).

In Tennessee, the general rule is that an employee's injury is not in the course of employment if he or she is injured going to or coming from work. Hubble v. Dyer Nursing Home, 188 S.W.3d 525, 534 (Tenn. 2006). This is sometimes referred to as the "going-and-coming rule." Howard v. Cornerstone Med. Assoc., P.C., 54 S.W.3d 238, 240 (Tenn. 2001). Our Supreme Court has stated the rationale for the rule:

> The reason supporting this rule is evident: travel to and from work is not, ordinarily, a risk of employment. Rather, driving to work falls into the group of all those things a worker must do in preparation for the work day, such as dressing; and driving home from work is often a prerequisite to getting home. While this travel is some modicum of benefit to the employer, travel to and from work is primarily for the benefit of the employee: if he doesn't present himself at the work place, he is not compensated for his labors.

Sharp v. Northwestern Nat'l Ins. Co., 654 S.W.2d 391, 392 (Tenn. 1983).

Tennessee has, however, recognized certain exceptions to the going-and-coming rule. Howard, 54 S.W.3d at 240. Among them are the two exceptions referenced by Employee in this case, the traveling-employee exception and the special-errand exception. See Stephens by Stephens v. Maxima Corp., 774 S.W.2d 931, 934 (Tenn. 1989); McCann v. Hatchett, 19 S.W.3d 218, 221-22 (Tenn. 2000). After carefully reviewing the record and the facts at issue,

we conclude that neither exception is applicable under the circumstances presented by this case.

Traveling-Employee Exception

Under caselaw applying the workers' compensation statute, an injury that occurs when the employee is traveling to and from work is compensable if the travel itself "is a substantial part of the services for which the [employee] was employed and compensated." Smith v. Royal Globe Ins. Co., 551 S.W.2d 679, 681 (Tenn. 1977); Cooper v. Robert Ledford Funeral Home, Inc., No. E2013-00261-COA-R10-CV, 2013 WL 3947758, at *6 (Tenn. Ct. App. July 29, 2013) (citing Shannon v. Roane Medical Center, No. E2011-02649-WC-R3-WC, 2013 WL 1003473, at *5 (Tenn. Workers' Comp. Panel Mar. 13, 2013)). This is known as the traveling-employee exception to the coming-and-going rule.

In McCann v. Hatchett, our Supreme Court examined decisions involving traveling employees and clarified Tennessee law on the subject:

> As stated in 2 Arthur Larson & Les K. Larson, Arthur Larson's Workers' Compensation Laws, § 25.00 (1998), the majority rule is that "[a]n employee whose work entails travel away from the employer's premises is generally considered to be within the course of his or her employment continuously during the trip, except when there is a distinct departure on a personal errand."
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> We think the majority rule furnishes the proper analysis for determining the compensability of injury or death of traveling employees. Therefore, in order to clarify the law in this state regarding traveling employees, we now adopt the majority rule and hold that a traveling employee is generally considered to be in the course of his or her employment continuously during the duration of the entire trip, except when there is a distinct departure on a personal errand.

McCann, 19 S.W.3d at 221.

Thus, generally speaking, an injury suffered by a traveling employee while going to and from work may be compensable, so long as the employee was not on a personal errand. "The reason for [the traveling-employee] exception is that 'the employment imposes the duty upon employees to go from place to place at the will of the employer in the performance of duty and the risks of travel are directly incident to the employment itself.'" Howard, 54 S.W.3d at 241 (quoting Smith, 551 S.W.2d at 681).

In order to determine if the traveling-employee exception applies, we first determine

whether the Employee's work entailed continuous travel away from the Employer's premises. Employee argues that the exception applies because a great deal of his typical workday required traveling to and from multiple store locations, for an average of 20,000 to 25,000 miles per year of travel for business purposes. He acknowledges that the vast majority of this travel was within the greater Memphis/northern Mississippi area, and that he was not compensated for daily mileage either from his home to his first location or from his last location back to his home. However, he also points out that he routinely did a few hours of work at his home before departing every morning, and that he had varying hours and was not a "punch clock" employee.

We draw guidance from several Tennessee cases that address this issue. In Howard v. Cornerstone Med. Assoc., P.C., a physician employee served as the employer's medical director. Howard, 54 S.W.3d at 239. This required him to travel to see patients in several different locations, including his main office, two nursing homes, and various hospitals. Id. He suffered serious injuries while traveling from his home to one of the nursing homes in his personal vehicle. Id. The physician employee argued that, despite the fact that his injuries were incurred while he was traveling from his home to one of the locations for which he was responsible, they were compensable under the workers' compensation statutes because he was a "traveling employee." Id. at 241. On appeal, the Supreme Court explained that "[a] 'traveling employee' is an employee working away from the regular job site . . . 'whose work entails travel away from the employer's premise.'" Id. at 241. The Court noted that the "'traveling employee' exception is generally applied to employees who travel extensively to further the employer's business, such as traveling salesmen." Id. at 241. Where the exception is applicable, the Court stated, "[t]he travel is an integral part of the job and differs from an ordinary commuter's travel, thereby exposing the traveling employee to greater risks," so the employee's travel away from the employer's premises "is considered to be within the course of employment throughout the entire trip." Id. at 241. The Court noted that in Howard, the physician employee's "travel was incidental at best, that his work boundaries were definable, and that his employment placed him at no greater risk than any other motorist on the highway." Id.

Similarly, Sharp v. Northwestern Nat'l Ins. Co., involved an employee who was ordered to a new worksite each morning if needed. Sharp, 654 S.W.2d 391, 391-92 (Tenn. 1983). This employee was injured driving home from work, and he sought workers' compensation benefits for his injuries. The Court determined he was subject to the coming-and-going rule and did not fall within the traveling-employee exception, and so denied workers' compensation benefits.[6] Id. at 391. As in Howard, the Court in Sharp found that

[6] Sharp also involved an employee who was arguably an "on-call" employee. In the case at bar, the trial court stated in its oral ruling that Employee was "on call 24/7." We need not determine whether this

the work boundaries for the plaintiff employee were clear, so the "undefinable boundary" element necessary for a traveling employee was missing:

> These [traveling employee] cases have in common the element of an undefinable boundary for the beginning and ending of the claimant's work environment. The very nature of the employments rendered that environment amorphous. And yet, it is certain the claimants were placed in circumstances which were directly related to their employment. And, therefore, injuries arising out of those circumstances were compensable.

Id. at 392 (relying on Employers' Liability Assurance Corp. v. Warren, 112 S.W.2d 837, 841 (Tenn. 1938) (traveling-employee exception applied because employee "was away from home and on a mission wholly in behalf of [and] under the direction of his employer.") and Central Sur. & Ins. Corp. v. Court, 36 S.W.2d 907, 908 (Tenn. 1931) (traveling-employee exception applied because employee was required to travel to various schools across the country at direction of employer, rendering it an integral part of her employment)). See also Douglas v. Lewis Bros. Bakeries, 477 S.W.2d 202, 203-04 (Tenn. 1972) (traveling-employee exception did not apply to maintenance engineer who was injured while traveling to facility at employer's request because employee was paid only after reached facility, no significant on-call restrictions, no substantial benefit to employer).

In the instant case, Employee traveled a great deal within defined boundaries, i.e., to and from the seven locations in Memphis and northern Mississippi for which he served as District Manager. The accident in question occurred when Employee was on the way to one of those locations. See Park-Pegram v. Findley & Pegram Co., No. W2009-00231-WC-R3-WC, 2010 WL 3237677, at *4 (Tenn. Workers Comp. Panel Aug. 17, 2010) ("It is our interpretation of McCann, Howard, and related cases that the traveling employee rule is limited to circumstances in which the employee's job requires frequent and/or extended travel beyond the community in which the employer's business is located."). As emphasized in Howard and Sharp, the common element of an "undefinable boundary" for Employee's work is not present in this case. Employee's presence in Corinth, Mississippi on the day in question was not in furtherance of the Employer's business. Employee was driving to work as he would have done on any other morning; he happened to be driving from Alabama only

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finding is supported by the facts in the record. See Shannon v. Roane Medical Center, No. E2011-02649-WC-R3-WC, 2013 WL 1003473, at *7 (Tenn. Workers' Comp. Panel Mar. 13, 2013) (examining cases from many jurisdictions regarding on-call employees). Employee does not assert that he was responding to an "on-call" event at the time of the accident in Corinth, Mississippi; it occurred during regular business hours when Employee was on his way to a long-scheduled meeting. Moreover, Employee does not argue that his "on-call" status should affect our analysis. Consequently, we decline to address it in ths opinion.

because he had undertaken a personal errand to move his ex-wife. For these reasons, we must respectfully conclude that the trial court erred in holding that Employee fell within the traveling-employee exception to the coming-and-going rule.

We must also reject Employee's assertion that his morning activities of reading emails and reports or making telephone calls before going to his first location should change our analysis. Though not directly on point, we find instructive the cases of Armstrong v. Liles Constr. Co., Inc., 389 S.W.2d 261 (Tenn. 1965); Transp. Ins. Co. v. Rees, No. 01S01-9606-CV-00123, 1997 WL 203591 (Tenn. Apr. 25, 1997); and Bialecke v. Chattanooga Publ'g. Co., No. E2005-02560-WC-R3-CV, 2006 WL 2382846, at *4 (Tenn. Workers' Comp. Panel Aug. 18, 2006). Each involved an automobile accident that occurred as the employee was driving from his home to his workplace, and the employee sought workers' compensation benefits for the resulting injuries. In all three cases, the employee argued that the trip arose from the employment because at the time of the accident, the employee was transporting work-related items such as receipts, equipment, or cell phones. In each case, the trip itself was deemed to be primarily for the benefit of the employee, and the transportation of employment-related materials was merely incidental.

Workers' compensation scholar Professor Arthur Larson has addressed the issue more directly. He reviewed and analyzed cases in which activities such as grading homework, reading computer reports, and the like were offered as evidence that the employee's residence was in effect an extension of the employee's workplace, so travel between the employee's home and the factory or office fell outside of the coming-and-going rule. He concluded:

> Is compensation law prepared to follow up the implications of a decision that professional employees (who all in some degree share the characteristic of doing part of their work at home) may convert virtually their entire day into the "course of employment" by virtue of such trivia as opening the front door to see whether to suspend school on stormy days? Teachers, doctors, lawyers, architects, artists, executives—in fact almost any employee—may have frequent occasion to perform services of some kind at home, often far more substantial than that of looking over the weather. If the going and coming rule is to be subjected to a process of gradual erosion, through the device of finding some tidbit of work performed at home, then in fairness to employees generally the entire doctrine should be scrapped and a fresh start should be made in which all goings and comings are covered.

1 Arthur Larson & Lex K. Larson, Arthur Larson's Workers' Compensation Law § 16.10 (2014) (internal footnote omitted).

We agree with Professor Larson's analysis. We need not address the situation in which the employee in question is a true telecommuter who works primarily from her home and suffers an injury while traveling to her employer's primary place of business. See Wait, 240 S.W.3d at 226-27. The case at bar does not involve such an employee. Here, the fact that the Employee does some preliminary reading of reports or emails or makes some business calls before he gets in his personal vehicle and begins his morning commute does not change our conclusion that Employee does not fall within the traveling-employee exception to the coming-and-going rule.

Special-Errand Exception

In the case at bar, the trial court did not explicitly state in its Order that it was applying the special-errand exception to the coming-and-going rule; however, it is arguable its factual findings amounted to such a conclusion, and Employee argues on appeal that we should affirm the award of workers' compensation benefits on that basis. Consequently, for the sake of completeness, we will briefly address it.

The special-errand exception is normally reserved for situations in which an employee has well-defined "time and space limits on his employment [but] makes an off-premises journey which would normally not be covered under the usual going and coming rule." Hubble v. Dyer Nursing Home, 188 S.W.3d 525, 534 (Tenn. 2006) (citing Stephens, 774 S.W.2d at 934). Typically, in cases in which the special-errand rule is deemed applicable, "there is a common thread that the employee is usually injured while performing some special act, assignment or mission at the direction of the employer." Id. (quoting Stephens, 774 S.W.2d at 934). For example, in Stephens by Stephens v. Maxima Corp., the plaintiff's decedent left her employer's premises on her lunch break in order to retrieve and return a questionnaire that had been distributed to all of her employer's employees but that she had accidentally left at her home. 774 S.W.2d 931, 932 (Tenn. 1989). En route to her home, she was killed in a motor vehicle accident. Id. The evidence showed that the responses to the employer's questionnaire were overdue and that a supervisor had advised the employee and her co-workers to return their responses as soon as possible. However, the employer had not "instructed, directed, required or even suggested that the employees return home to get the forms. Such action was the decision of the deceased." Id. at 932-33. Because, the evidence at the trial did not suggest that the supervisor placed any urgency on the immediate return of the form during the current shift nor did the employer "specifically instruct[] the deceased to retrieve the document on this occasion," the trial court found that the employee's death was not compensable and the Supreme Court affirmed. Id. at 934. In so doing, the Court relied upon Professor Larson's definition of the special-errand exception:

> When an employee, having identifiable time and space limits on his employment, makes an off-premises journey which would normally not be covered under the usual going and coming rule, the journey may be brought within the course of employment by the fact that the trouble and time of making the journey, or the special inconvenience, hazard, or urgency of making it in the particular circumstances, is itself sufficiently substantial to be viewed as an integral part of the service itself. 1 Larson, Workmen's Compensation Law § 16.11 (1985).[7]

774 S.W.2d at 934. Following Stephens, the Special Workers' Compensation Panel has observed: "The common denominator running throughout those cases wherein the special errand or special mission rule has been applied is the furtherance of the business of the employer at the special inconvenience or hazard of the employee who is performing a special act, assignment, or mission on behalf of the employer." Carter v. Phoenix Rest. Grp. of Tenn., Inc., No. 03S01-9602-CH-00013, 1997 WL 26296, at *3 (Tenn. Workers' Comp. Panel Jan. 23, 1997).

On appeal, Employee asserts that his travel to Olive Branch was a special errand because his supervisor, Andy Abbajay, directed him to meet with Ms. Durance and complete the transfer of management responsibilities in Olive Branch no later than September 19, 2011. We are unpersuaded. The destination of the meeting was one of Employee's regular locations, still under his purview until he accomplished the transfer of responsibilities to Ms. Durance, and it occurred during regular business hours. The purpose of the meeting was to permit Employee and Ms. Durance to complete an inventory of cash and stock and review financial and other data, the type of tasks Employee performed in the normal course of his duties as District Manager. It did not expose Employee to any greater hazard than he experienced commuting to work on any other Monday morning. The only extra hazard to which Employee was exposed arose from his decision to make the journey to the scheduled meeting in Olive Branch from Alabama instead of Cordova, Tennessee, in order to accommodate a personal errand, i.e., moving his ex-wife to her new home.

Accordingly, we must respectfully conclude that the trial court erred in awarding workers' compensation benefits to Employee. This conclusion pretermits the additional issue raised by Employee.

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[7] The rule is set out in the current edition of the treatise at 1 Arthur Larson & Lex K. Larson, Arthur Larson's Workers' Compensation Law § 14.05[1] (2014).

Conclusion

The judgment of the trial court is reversed. The complaint is dismissed. Costs are taxed to James Autwell, for which execution may issue, if necessary.

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HOLLY KIRBY, JUSTICE

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT JACKSON

JAMES AUTWELL v. BACK YARD BURGERS, INC., ET AL.

Circuit Court for Shelby County
No. CT00250412

No. W2014-00232-SC-R3-WC - Filed March 16, 2015

JUDGMENT ORDER

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference;

Whereupon, it appears to the Court that the Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs on appeal are taxed to the Appellee, James Autwell, for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM