

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 4, 2003

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 02-2426
STATE OF WISCONSIN**

Cir. Ct. No. 02-CV-8

**IN COURT OF APPEALS
DISTRICT III**

JOSHUA M. ECKELBERG,

PLAINTIFF-APPELLANT,

v.

**SCIENTIFIC MOLDING, WAUSAU UNDERWRITERS
INSURANCE AND STATE OF WISCONSIN LABOR AND
INDUSTRY REVIEW COMMISSION,**

DEFENDANTS-RESPONDENTS.

APPEAL from a judgment of the circuit court for St. Croix County:
SCOTT R. NEEDHAM, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Joshua Eckelberg appeals a judgment affirming a decision of the Labor and Industry Review Commission that denied him worker's compensation. Eckelberg fell at work after walking through a doorway where

plastic drapes hung from the ceiling. Based on statements Eckelberg initially gave his treating physicians and his supervisors' testimony regarding where they found him laying on the floor, the commission found that Eckelberg's injuries arose from an unknown cause, and therefore termed them idiopathic. Eckelberg argues that his employer failed to establish idiopathic injury because it presented no evidence that he was predisposed to injury and that the evidence does not support the commission's findings. We reject these arguments and affirm the judgment.

¶2 Eckelberg's first argument depends on a misallocation of the burden of proof, confusing the commission's findings of fact with its conclusions of law and employing a restrictive definition of idiopathic injury. The burden is on the claimant to prove all of the facts essential to recovery beyond a legitimate doubt. *See Leist v. LIRC*, 183 Wis. 2d 450, 457, 515 N.W.2d 268 (1994). A claimant is not entitled to compensation merely because an injury occurred while he was working. Rather, he must establish a causal link between his injury and some aspect of his employment or a condition in the work place. *See Ide v. LIRC*, 224 Wis. 2d 159, 171-72, 589 N.W.2d 363 (1999). Either an unexplained or idiopathic injury results in no compensation unless it occurs in a zone of special danger.¹ The employer is not required to prove that the claimant was predisposed to injury. Rather, the claimant must prove that the cause of the fall was related to the employment and the injury was neither idiopathic nor unexplained. *See Briggs & Stratton v. DILHR*, 43 Wis. 2d 398, 405, 168 N.W.2d 817 (1969).

¹ Because the result is the same, the terms are often used interchangeably. Both unexplained and idiopathic injuries result from no defect in the premises or some aspect of a work assignment. *Briggs & Stratton v. DILHR*, 43 Wis. 2d 398, 405, 168 N.W.2d 817 (1969).

¶3 Sufficient evidence supports the commission's finding that Eckelberg was walking along a dry, level surface and, for some unexplained reason, his knee gave out. Reviewing courts may not substitute their judgment for the commission's, but must attempt to locate credible and substantial evidence in the record that supports its decision. *Vande Zande v. DILHR*, 70 Wis. 2d 1086, 1097, 263 N.W.2d 255 (1975). The commission's findings are conclusive if supported by credible and substantial evidence. *See* WIS. STAT. § 102.23(6) (1999-2000). The commission reasonably doubted Eckelberg's attempts to associate his fall with the doorway or the plastic curtains. In his initial reports to his treating physicians, Eckelberg did not associate the fall with the doorway. Other witnesses placed him at least fifteen feet from the doorway when he fell, suggesting that the doorway was unrelated to his knee giving way. The finding that Eckelberg's injury occurred for reasons unique to him or unexplained reasons supports the commission's conclusion that Eckelberg was not entitled to workers' compensation.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

