

APPELLATE LAW UPDATE

JUNE 23, 2023



BY: JOHN CUTLER

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TRIPP V. SCOTT COUNTY EMERGENCY COMMUNICATION CENTER



Iowa Supreme Court, 2022

- Facts:
 - Emergency dispatcher received call from mother screaming that she was holding her baby, who had just died.
 - While listening to radio traffic, she heard the infant had allegedly been beaten with hammer.
 - Developed PTSD
- Procedural History:
 - Claim denied. Deputy, Commissioner, and District Court affirmed denial.
- Holding:
 - "For mental injuries 'based on a manifest happening of a sudden traumatic nature from an unexpected cause or unusual strain' legal causation is established without regard to the regular duties of the particular employee or other employees in similar positions." (emphasis added)

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BLASDELL V. LINNHAVEN, INC., AND ACCIDENT FUND



Iowa Supreme Court, 2023

- **Issue:**
 - When does a married couples' separation result in "spousal desertion" under Iowa Code 85.42 (2017).
- **Facts:**
 - 2.5 years into marriage, wife left marital home in Dehli, IA and moved to Cedar Rapids. Wife's son from prior relationship moved with husband to Manchester, IA. Husband and wife never divorced but never lived together again. They remained in contact and supported each other financially.
 - 1 year after moving, wife was permanently and totally disabled as a result of work injury and passed away from overdose 4 years later.
- **Procedural History:**
 - Employer denied death benefits because "[husband] had willfully deserted wife without any fault to her." Deputy and Commissioner agreed, deny surviving spouse benefits. District Court reversed.
- **Holding:**
 - "Mere separation of a husband and wife by itself has not affected the right of a surviving spouse to workers compensation benefits."

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DAVIS V. GORDON FOOD SERVICE, INC.



Polk County District Court. November 15, 2022

- **Issue:**
 - Does Iowa's workplace drug testing statute (Iowa Code 730.5) apply to workers compensation proceedings?
- **Facts:**
 - Post-injury drug test positive for amphetamines and methamphetamine. Claim denied per Iowa Code 85.16.
 - Claimant denied being high at work, admitted using meth in days prior to incident.
- **Procedural History:**
 - Deputy concluded drug test did not have to comply with 730.5 for rebuttable presumption to apply. Commissioner agreed.
- **Holding:**
 - "The Commissioner correctly held that Iowa Code 730.5 does not apply in a workers compensation proceeding in gauging an employer's intoxication defense."

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TAMAYO-PEREZ V. HORMEL FOODS CORP.



District Court, Polk County, January 10, 2023 (Petition for Judicial Review)

- Issue:
 - Does Judicial Estoppel bar Defendant from denying compensability in alternate care proceeding, after accepting compensability in prior alternate care proceeding?
- Facts:
 - Accepted lower back injury.
 - Multiple alternate care petitions. Accepted as compensable.
 - 4/18/22: Updated medical evaluation. Based in part on update, compensability denied in subsequent alt care proceeding.
- Holding:
 - Judicial estoppel barred Defendants from admitting compensability in alternate care proceedings, then denying compensability in subsequent alternate care proceedings.

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GREEN V. NORTH CENTRAL IOWA REGIONAL SOLID WASTE AUTHORITY



Iowa Supreme Court, 2023

- Issue:
 - When arbitration decision finds that no permanent impairment, can Claimant file a review/reopening to pursue claim for permanent impairment?
- Facts:
 - In 2014 arbitration decision, Deputy concluded Claimant proved no permanent injury.
 - Claimant later filed a review/reopening which claimed to have a permanent current condition based on later developments.
- Holding:
 - Res judicata does not prevent review/reopening if permanent disability symptoms arise.

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Lattner v. Rife



Iowa Court of Appeals, 2023

- Facts:
 - 2009 right shoulder injury. Full commutation – industrial disability 29.6% Body as a Whole.
 - 2018 right shoulder injury.
 - Deputy: No credit allowed for 2009 shoulder injury. Commissioner affirmed.
 - Claimant got IME, sought reimbursement.
- Holding:
 - Defendant could claim credit for pre-amendment shoulder injury, despite pre-amendment injury being compensated as injury to body as a whole, not scheduled member.
 - Defendants only required to reimburse portion of IME for impairment rating for accepted body parts.

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Questions? Contact us!

Cutler Law Firm, PC
1307 50th Street
West Des Moines, IA 50266

Phone: 515-223-6600
Email: jcutler@cutlerfirm.com

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