



## The premises rules

**W**hen determining whether an injury occurred in the performance of duty, the Office of Workers' Compensation Programs (OWCP) must decide if the injury occurred on the employer premises, or if the employee was performing assigned duties off premises.

Of course, letter carriers, by the nature of the work, are only on post office premises for a part of each working day and it follows that many carrier injuries are sustained away from post office premises. However, since carriers do incur both on-premises and off-premises injuries, this article will address both.

**On premises**—If an employee is injured on the premises of the post office—while going to or coming from work, before or after working hours—their injury may be compensable. This includes a reasonable interval before and after official working hours while the employee is on the premises engaging in preparatory or incidental acts. What constitutes a reasonable interval depends not only on the length of time involved, but also on the circumstances occasioning the interval and nature of the employment activity.

The mere fact that an injury occurs on agency premises before or after working hours is not sufficient to bring the injury within the performance of duty. The employee must also establish that the injury arose out of the employment. Personal activities, such as reporting early to read the paper in the swing room, staying after work to talk about world events in the parking lot or picking up your paycheck on your off day, are not considered covered activities. Horseplay injuries are also usually determined to be outside the scope of coverage by OWCP.

The Employees' Compensation Appeals Board (ECAB) has ruled that the "premises" of the employer, as that term is used in workers' compensation law, is not necessarily coterminous with the property owned by the employer. It may be broader or narrower, and is dependent more on the relationship of the property to the employment than on the status or extent of legal title.<sup>1</sup>

In one case, ECAB found that the appellant's injury, which occurred on a necessary route between two por-

tions of the employing agency's premises, albeit on a public sidewalk, arose in the course of his employment.<sup>2</sup>

ECAB has also ruled that the mere use of a parking facility alone is not sufficient to bring the parking lot within the premises of the employing agency. The premises doctrine is applied to those cases where it is affirmatively demonstrated that the employer owned, maintained or controlled the parking facility, used the facility with the owner's special permission, or provided parking for its employees.<sup>3</sup>

**Off premises**—In determining whether letter carriers have sustained an injury in the performance of duty off premises, the factual evidence will be examined to ascertain whether, at the time of injury, the carrier was at a place where they reasonably should have been and that they were fulfilling employment duties or engaged in activities reasonably incidental thereto.

Off-premises personal acts injuries can occur when a carrier is engaged in a diversion related to a personal comfort or health stop. Such injuries will usually be covered as long as the diversion is determined to be a normal incident and not excessive.

Injuries that occur as the result of a deviation from assigned duties to engage in personal activities are not covered. When necessary, the claim's examiner may solicit evidence such as statements or maps to determine whether a deviation occurred.

Off-premises emergency duty injuries can occur when a carrier steps outside their normal duties to assist in emergency situations such as extinguishing a fire or helping a person in imminent danger. Such injuries will usually be covered if the carrier was acting in the scope of their duties immediately before the emergency diversion.

Injuries sustained off premises while going to or coming from work are generally not compensable because they usually do not occur in the performance of duty. Injuries incurred while in a travel status or while riding employer-provided transportation would be exceptions to that rule. ☒

1. A.R. and Dept of Army—ECAB 90-1670

2. M.R. and USPS—ECAB 07-596

3. S.V. and Dept of VA—ECAB 07-880