

An Argument At Work Caused Injury. What Can I Do?

October 11, 2012 | by Thomas F. Dorn, Jr

Dear Ask the Attorney:

I wait tables at a bar/restaurant full time. The other day I got into an argument with the bartender on shift who accused me of not “tipping her out” enough. It got heated and she shoved me. I slipped and fell hurting my back and haven’t been able to work. I don’t know what to do – my insurance isn’t that great and I don’t want to lose my job. What can I do?

A.L.

Our guest blogger today is Einhorn Barbarito’ Thomas F. Dorn, Jr. Esq. Tom was the first attorney in the state of New Jersey who was Certified by the Supreme Court of New Jersey in both Worker’s Compensation and Civil Trial Law.

Dear A.L.:

Your question raises several issues involving your rights to file a workers’ compensation case and/or a negligence case. Depending on the facts of your incident at work you may have the right to pursue workers’ compensation benefits.

In general if you are injured at work you have the right to file a workers’ compensation case. In a workers’ compensation case your medical bills are paid by the workers’ compensation insurance company for your employer and you can receive a monetary award if you have a permanent injury. When you are hurt at work your injury must have resulted from the nature of your job in order to collect workers’ compensation benefits. In your case, if the bartender pushed you because of a dispute over a work related issue (tips) then your injury may have resulted from your employment.

If, however, your injury had resulted from an argument over politics, over a girlfriend/boyfriend or any other personal/non work related issue then you cannot file a workers' compensation case because your injury did not result from the nature of your work. An injury resulting from an argument over politics or a personal matter could have happened anywhere meaning that the fact that it happened at work was a coincidence. If your injuries resulted from a fight of a personal nature you have the right to file a civil case against your co-worker in New Jersey Superior court. However, because the liability insurance company for your job will most likely deny insurance coverage for the assault by your co-worker, if you are successful in obtaining a judgment against your co-worker you may have a difficult time collecting the judgment.

You should be aware that even though your fight or assault may have been considered work related, the workers' compensation insurance company will most likely deny your case because they will contend that your injury was the result of "horseplay", meaning it was a mutual fight or dispute stemming from a personal matter. When there is a denial by the insurance company a workers' compensation attorney can file your case right away and give you advice about medical treatment, medical bills and use of your private health insurance.

Because the answer to your question depends on the facts of the cause of your fight/assault with your co-worker you should contact a workers' compensation attorney to discuss your rights and determine what steps you should take now.