

The Rights Of The Injured Employee And The Employer

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Employees who are injured on the job have the right to file a claim in New Jersey Workers' Compensation court. The workers' compensation attorneys at our firm represent injured workers in the claims process and assist them in obtaining an award for their injuries. There is no consultation fee or hourly fee in workers' compensation cases. By law, a workers' compensation attorney receives 20% of an award when the case is settled.

Every employer in New Jersey is required to maintain workers' compensation insurance for their employees. If an accident occurs on the job, the employer must notify their workers' compensation insurance company to file a claim. The insurance company then notifies in writing the Division of Workers' Compensation in Trenton of the accident.

The workers' compensation insurance company—not the employer—is responsible for the following benefits that the injured employee receives: (a) medical treatment, (b) payment of temporary disability and (c) payment of a permanent disability award. Because the workers' compensation insurance company pays and chooses the treating medical providers, the employee cannot choose their own doctor and cannot use their own private health insurance. On occasion, the insurance company will refuse to provide medical treatment and our workers' compensation attorneys have to file papers in court to obtain the necessary treatment.

If the injured employee is unable to work for at least seven days, the insurance company will pay the employee temporary disability benefits in the amount of 70% of the employee's gross weekly salary until the employee returns to work.

To obtain a permanency award, our attorneys file a formal claim petition in workers' compensation court. The claim petition is filed in the county where the injured employee lives. For employees who live in Morris, Sussex or northern Warren County, the court is located in Mount Arlington.

Ultimately, the workers' compensation judge assigned to the case determines what amount of money the injured employee receives in a permanency award after considering medical evidence presented by our attorneys and the insurance company attorneys. In most cases, after an employee receives an award, the case can be reopened up until two years after receiving payment of the award.

In addition to the above basic overview, there are other important aspects of a workers' compensation case. First, it does not matter if the employee was at fault in the accident.

Second, under New Jersey Statute 34:15-39.1, an employer cannot fire or discriminate against an injured worker for getting hurt or for filing a claim in workers' compensation court.

Third, workers' compensation court also has jurisdiction over occupational exposure cases. For example, some employees develop injuries over a period of time as opposed to a specific accident date. We have handled numerous occupational cases for employees who develop injuries to body parts as a result of years of typing, heavy lifting, bending or kneeling.

Last, pain and suffering damages are not allowed in workers' compensation awards. Because no jury system exists in compensation cases, the award is made by the judge and is based upon a chart which establishes percentages of disability for the body part that was injured.