

I tripped and hurt myself at work. Can I get workers' comp?

November 28, 2012 | by Thomas F. Dorn, Jr

When I was at the office the other day, I was talking over my shoulder to one of my co-workers and tripped over a file. I fell hard and hurt my back and knee. My doctor said that I have to stay off my feet for a few weeks. It was my fault for not looking where I was going, but I was wondering if I could file a workers' compensation claim so that I can pay for my medical bills and the time I am out on bed-rest?

T.F.

Dear T.F.:

Your question raises several potential issues depending on the circumstances of your fall inside your office. You should contact a workers' compensation attorney and give details of your accident at your workplace as soon as possible.

In general, you have the right to pursue a workers' compensation accident in New Jersey even if the accident was technically your fault. In this regard, the workers' compensation laws in New Jersey are much different from personal injury laws.

For example, if you are driving your car and you go through a stop sign, strike another car and sustain significant injuries, you cannot pursue a personal injury negligence action against the other driver because the accident was your fault. However, if at the time of the accident you were working and driving a company car you may be able to file a workers' compensation case for your injuries.

Based on the facts of your question above, because you were on company premises and you were injured, you may have the right to file a workers' compensation case. First, you should report your injury to your company's workers' compensation insurance carrier. As for your injuries, your medical treatment will be chosen by and paid by the workers' compensation insurance company. Because you will be unable to work for several weeks, the workers' compensation insurance company will pay you temporary disability at the rate of 70% of your gross weekly salary until you are cleared by the company doctor to return to work. To be eligible for temporary disability you must be unable to work for at least seven days. Also, based upon the fact that you were injured (back and knee) you also may have the right to file a claim petition in workers' compensation court in the County where you live. A judge will be assigned to your case and may ultimately award you some type of monetary award for the injuries that you sustained.

If, however, the sole cause of the accident was determined to be your fault then a workers' compensation case would not be successful, but that would be very rare. In the facts you presented in your question, even though you were not paying attention to where you were going by looking over your shoulder talking to a co-worker, the file on the floor was a factor in your fall. Therefore, the sole cause of your accident was not looking backwards—the office file was a cause as well. However, these cases are very fact sensitive and you should consider consulting with a workers' compensation attorney to help you determine your rights and determine what type of case to pursue.