

Monthly Memo

IS A "SLIP AND FALL" OF AN EMPLOYEE IN THE HOME EMPLOYEE RENTS FROM THE EMPLOYER COVERED BY WORKERS' COMPENSATION?

Marck Vaught is a Park Ranger for the State of California. He was given a new position and the State offered him, as an employment benefit, a house to live in. A rental amount was agreed upon between Mr. Vaught and the State.

After moving in, the Vaughts found that there were several water leaks in the house and asked the State to come and fix the leaks. Mr. and Mrs. Vaught went for a hike and when they returned the water was turned off and the leaks were still occurring. Mr. Vaught bent over and then, as he began to get up, he slipped, fell, and sustained injuries. He filed a civil lawsuit against the State for negligence and for not making the house habitable for human occupation. The State disagreed and argued that if there was any injury, it would be covered by Labor Code Section 3602(a) as a work related injury. The trial court agreed with the State and entered a judgment which required Mr. Vaught to file a claim with the Workers' Compensation Appeals Board (WCAB).

Mr. and Mrs. Vaught filed an appeal with the California Court of Appeals and the Appellate Court issued a decision on December 18, 2007 in the matter of *Marck O. Vaught v. State of California*.

First of all, the Appeals Court found that per California law, any injury sustained by employees "*arising out of and in the course of employment*" are covered by California's WCAB and it is the exclusive remedy. "The rule of liberal construction governs all aspects of workers' compensation." In citing a prior court decision, the Appeals Court decided that:

The rule of liberal construction 'is not altered because a plaintiff believes [he or she] can establish negligence on [his or her] employer and bring a claim for civil damages'. It requires that we liberally construe the [laws] in favor of *awarding workers compensation*, not in permitting civil litigation.

The Court referenced the "bunkhouse" rule which means that when an injury occurs while the employee is on the employer's premises as contemplated by the employment contract, or as the work requires, the employee is covered by workers' compensation. The Vaughts living on the premises is part of the employee's compensation and is thereby covered by workers' compensation. The Vaughts disputed that argument and said there was no obligation for them to live in the housing provided. The Court of Appeals found that that fact did not matter. Mr. Vaught made a choice and agreed to live in the house provided by the State.