Michigan law generally does not provide workers’ compensation benefits for employees who experience “level floor” or “idiopathic” falls while at work. Simply put, not everything that happens at work is compensable, especially when there is a personal element to an injury.

The leading case in Michigan on this issue was decided in 1977. An employee fell on a level floor as a result of a seizure disorder. The Michigan Court of Appeals called this an “idiopathic fall” which was caused by a disease or condition that was strictly personal to the employee. The Court stated there must be a showing the location of the fall either aggravated or increased the injury, in order for compensation benefits to be awarded. If the work placed the employee in a position where the risk of being injured was great, such as on a ladder, an idiopathic fall could however be compensable.

In a restaurant or retail situation then, an employee who simply falls to the floor, due to for example fainting, a seizure, or a diabetic condition; would not be entitled to workers’ compensation benefits, as long as the personal risk is the cause of the fall and any resultant injury. However, if the floor was wet, slippery or greasy, and those conditions were proven to have caused the fall, benefits would be allowed. Likewise, an employee who falls as a result of a personal risk and strikes a piece of equipment on the way down will be entitled to benefits.

In order to properly defend these types of cases, good investigation by the employer is essential. Inside surveillance video should be preserved immediately if it depicts the actual event. Defense counsel should obtain a copy of the EMS run sheets, as they usually contain a wealth of helpful information. As a result, store management should secure the name and address of the EMS company before they leave the scene for later use by counsel.

Recorded statements should be taken from co-workers who either witnessed the event or were working in the area where the fall took place, to verify floor conditions immediately before the event. Owners and top line managers should make certain on duty managers are trained to not make statements to the injured worker or their family members that the employer will take care of the employee’s medical bills.

Of course, good risk management is crucial in the retail and food service industries. In Michigan, current law gives an employer additional protection against workers’ compensation claims involving slip and fall incidents caused only by an employee’s personal risk.
For more information on the details of this advisory contact Jerry Newman in our Farmington Hills office at 248.324.2620

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