
Nurse Workers Compensation

An agency nurse was ruled to have no right to file a civil personal injury negligence lawsuit against a hospital where she was working when she slipped and fell on a wet floor.

An employee may not sue his or her employer for negligence for personal injuries sustained in the course of employment, but must look to worker's compensation as the exclusive remedy.

The nurse claimed in her lawsuit she had the same legal status as a patient or visitor in the hospital, or a patron in a retail store or other place of business open to the public.

She claimed the hospital had an obligation to provide a safe place to work and so she could sue for breach of this legal obligation.

The hospital disagreed. It argued the nurse was the same as a hospital employee.

The court ruled for the hospital. The agency nurse was in essence a hospital employee. She could not sue the hospital for on-the-job personal injuries.

SUPERIOR COURT OF NEW JERSEY, 1996.

A licensed practical nurse worked for a temporary nursing agency and went out on assignments to various healthcare facilities. While working at one such facility, she slipped and fell on a wet, freshly-mopped floor and was injured. She filed a civil personal injury lawsuit for negligence against the facility where this happened.

The facility, as a tactical matter, opted to try to have the case dismissed at a preliminary hearing, on the grounds that the nurse was, for legal purposes, its employee, and, as an employee, had no other legal recourse for an on-the-job injury but to apply for worker's compensation.

The Superior Court of New Jersey sided with the facility. It ruled it proper for a court to dismiss this nurse's case, without considering whether the facility had been guilty of negligence, whether such negligence was the reason she fell or whether she was entitled to damages for personal injuries and how much.

Because the facility where she worked had the right to control in all respects the details of how the nurse carried out her job, both from the standpoint of overseeing her clinical performance as well as making and enforcing the facility's work rules, the facility's parent corporation was considered by law to be her employer, the court said.

The nursing agency which assigned her to a specific facility and whose corporate offices issued her paycheck was *also* her employer, according to the court.

Each corporation was her employer. They had the responsibility to see that one or the other of them paid the applicable worker's compensation insurance premium required by law. And neither employer, not the agency or the hospital, could be sued for negligence for on-the-job personal injuries. **Kelly vs. Geriatric and Medical Services, Inc.**, 671 A. 2d 631 (N.J. Super., 1996).