

Worker's Comp: Violation Of Safety Rule Can Bar Right To Compensation.

A nursing assistant working in a nursing home injured her lower back while attempting to lift a patient from a chair to bed alone without assistance.

The nursing home had a buddy-system lifting rule which required two employees to work together when turning, pulling, positioning or lifting a resident.

Safety Rules Protect Staff and Residents

The aide applied for worker's compensation benefits for her back injury. Her claim was turned down by the nursing home on the basis that her injury was due to intentional violation on her part of an established work-safety rule.

The employer has to prove the employee knowingly violated a work-safety rule without any justification.

Otherwise the employee can still collect.

COURT OF CIVIL APPEALS OF ALABAMA
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The Court of Civil Appeals of Alabama ruled the aide was nonetheless eligible for worker's compensation.

The court agreed with the nursing home, in general, the law says an employee is not entitled to worker's comp for an on-the-job injury resulting from intentional violation of a work-safety rule.

However, the employer has the burden of proof to establish that the employee acted knowingly, willfully and without justification, which is almost impossible to prove. If the employee was injured just due to carelessness, the employee can still get worker's compensation. **Coosa Valley Health Care v. Johnson, __ So. 2d __, 2007 WL 80506 (Ala. Civ. App., January 12, 2007).**