

Mental Stress Liability Under Missouri Work Comp

Chris Archer, 2023

The key component to determining whether a mental stress claim will be compensable in Missouri is defining what would be “extraordinary and unusual” under the statute. A case from 2017 is the latest and most relevant one discussing what is required. The facts were extreme as the Claimant worked on highway crashes dealing with dead bodies and the like and did this over many years. Her case was remanded for more evidence. It actually is still pending. I provide the statute, and brief summary of the *Mantia* case, but also supply the Supreme Court opinion itself.

I also provide two older cases that had denied compensability based upon the facts presented in those two cases. In *Sherman*, the Claimant was not credible and the President was found to have acted in “good faith” regarding her termination. In *Williams*, compensation was likewise denied as the Claimant failed to document objectively events at work that were unusual or extraordinary. The Court also affirmed the Commission’s denial: **“Employee failed to prove her mental injury or disease resulted from something other than legitimate personnel actions which had been taken in good faith by the employer.”**

The cases that have been found compensable are ones where the conduct of the employer was clearly unusual. An Employee may have a legitimate mental stress injury as a reaction to work stress and still it may not constitute a compensable mental stress claim under Missouri law.

Statute

287.120.8. Mental injury resulting from work related stress does not arise out of and in the course of the employment, unless it is demonstrated that the stress is work related and was **extraordinary and unusual**. The amount of work stress shall be measured by objective standards and actual events.

9. A mental injury is not considered to arise out of and in the course of the employment if it resulted from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination **or any similar action taken in good faith by the employer.**

Linda Mantia v MODOT and SIF 2017 Missouri Supreme Court

Claimant worked for the Missouri Department of Transportation for 20 years. Her job included cleaning up and providing assistance at motor vehicle accidents up to four times a week and later she and her crew were assigned only the worst accidents. Claimant witnessed catastrophic scenes of dismemberment and death. She worked over 1,000 scenes. She developed what all evaluating and treating physicians diagnosed PTSD related to this work.

The Employer defended the claim based upon the argument that all highway workers doing her job are similarly exposed and therefore the exposure was not “extraordinary and unusual” as required in section 287.120.8.

The Commission found the injury compensable overturning the ALJ’s denial of benefits. The Commission found that section 287.120.8 does not require the “unusual and extraordinary” stress be determined by comparison with other coworkers similarly situated.

The Missouri Supreme Court reversed and denied benefits:

“Here, Employee's testimony and her doctors' testimony regarding her work-related stress was relevant to show she sustained an injury and its cause. Yet, this testimony was insufficient to meet the statutorily required objective standard of proving Employee's stress was extraordinary and unusual. Section 287.120 "does not clearly set forth what objective standards should be used to discern the extraordinary and unusual nature of an employee's work-related psychological injury." 37 Mo. Prac., Employment Law & Practice sec. 10:16. However, it is clear that objective standards are well defined in our case law...

Accordingly, the objective standard for determining whether Employee's stress was compensable is **whether the same or similar actual work events would cause a reasonable highway worker extraordinary and unusual stress**. Such evidence might be introduced through the testimony of other highway workers as to the circumstances that are experienced as part of the job in general, but individualized, subjective reactions to those circumstances are irrelevant. Employee need not show the subjective experiences of her fellow workers were not as severe as her experiences, but rather, she must demonstrate **the actual events she experienced were such that a reasonable highway worker would experience extraordinary and unusual stress.**”