

Accidents at work – Is it the employee's fault?

Employers owe their staff a reasonable duty of care to ensure that they do not suffer a personal injury while at work. However, employees must also exercise reasonable care to minimise the risk of injury, writes Martin Kerrigan, Solicitor.

Contributory Negligence happens when an injured person is considered to be partly at fault for their injury. The level of fault attributed to the injured employee for their actions, depends on the circumstances of the case. Examples include an employee's age, the position he or she holds and his or her level of experience.

The following are two examples of cases where the Irish courts found employees partly at fault for their injuries. In the first case, the injured party fell over a pallet at work which had been carelessly left on the ground by a colleague. The judge reduced the compensation figure to the injured party by 50% on the basis that every employee should have some regard for their own safety. In the second example, the injured party was employed as a shop manager. While tidying the office floor, she tripped over a box sustaining an injury. The court considered the role she held in the company and the circumstances of the case. As a consequence, the court reduced the level of compensation. The court considered that she was the manager in the company and worked primarily from this office. She was also very familiar with the office space. She had a duty to ensure the office was kept clear and free of clutter. She knew of the

potential danger and was clearing the office when the accident occurred.

There are occasions when the employee might not be found contributory negligent. When the injured employee is young and inexperienced, the courts are less inclined to find them partially at fault for their injury. In one such case, a 15 year old on his first day of work suffered an injury while cleaning a machine. He was not warned of the danger of cleaning the machine while in motion. The Judge stated that an adult with more experience might have appreciated the danger. However, due to the boy's age and inexperience, he was not found to be at fault for his injuries. In another more recent example, an employee suffered an injury while using a wood cutting machine. Although he was familiar with the machine, having previously used it on many occasions, he was returning to work after one year's leave of absence. During this time, the surrounding floor had been tiled. In the circumstances, he was not found at fault for his injury as he could not have foreseen the danger associated with this new floor.



If you have been injured in an accident at work but believe you may be partly responsible, it is best to engage a qualified professional early who is very familiar with personal injury law.

In contentious business, a solicitor may not calculate fees or charges as a percentage or proportion of any award or settlement.

*Martin Kerrigan is a Solicitor working in Personal Injury and Medical Negligence Law.
For further advice email martinkerrigan@berwick.ie*

berwick

SOLICITORS

16 Eyre Square, Galway.
091-567545 / 086-8152932
www.berwick.ie