STATE OF ILLINOIS)
)SS
COUNTY OF CHAMPAIGN)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Mary Jane Cawood,
Petitioner,

vs.

Robinson School District,
Respondent,

No. 11WC 34138
14IWCC0241

ORDER

This matter comes before the Commission on its own Petition to Recall the Commission Decision to Correct Clerical Error pursuant to Section 19(f) of the Act. The Commission having been fully advised in the premises finds the following:

The Commission finds that said Decision should be recalled for the correction of a clerical/computational error.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Commission Decision dated April 1, 2014, is hereby recalled pursuant to Section 19(f) of the Act. The parties should return their original decisions to Commissioner Charles J. DeVriendt.

IT IS FURTHER ORDERED BY THE COMMISSION that a Corrected Decision shall be issued simultaneously with this Order.

Charles J. DeVriendt

DATED: APR 2 3 2014

STATE OF ILLINOIS)
) SS.
COUNTY OF)
CHAMPAIGN

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☒ Reverse Accident	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☒ Modify up	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Mary Jane Cawood,
Petitioner,

vs.

NO: 11 WC 34138
14IWCC 0241

Robinson School District,
Respondent,

CORRECTED DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, medical both incurred and prospective, temporary total disability and permanent partial disability and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Commission finds that Petitioner proved that she sustained accidental injuries that arose out of and in the course of her employment.

The Commission also finds that Petitioner is entitled to temporary total disability from May 10, 2011 through August 17, 2011 representing 14 2/7 weeks as well as a loss of use of 35% of the left hand and 10% of the left arm.

Petitioner was a school bus driver for the Respondent. On May 9, 2011, after finishing her evening route she grabbed her paperwork and walked across the school's parking lot toward the bus barn to turn the paper work in. Petitioner walked over an area of the lot where the gravel had washed away and the concrete surface was about 1.5 inches higher than the gravel surface. She testified that she hit the toe of her sandal against the raised concrete area causing her to fall forward. She fell onto her left side and could not get up. (Transcript Pgs. 16-17)

She called for assistance and Rip York, Respondent's mechanic, came out of the bus barn and helped her up. (Transcript Pgs. 21-22)

Rip York testified and agreed that the parking lot was asphalt and that the concrete and asphalt do meet but there is no lip other than just a separation where it is blacktop to concrete. He admitted on cross examination that the bus parking lot is gravel and that the gravel is lower than the concrete because some people turn into the lot and cause the gravel to move. He testified that the gravel is about an inch to two inches lower than the concrete. He further admitted that he did not witness the accident. He is just testifying to where Petitioner was when he picked her up. He is unable to testify to where she fell. (Transcript Pgs. 42-54)

Petitioner was taken to Crawford Memorial Hospital on the date of the incident. According to the Hospital's records, the Petitioner stated that she was walking to work when she tripped where the gravel and concrete meet. (Petitioner Exhibit 1)

When an injury to an employee takes place in an area which is the usual route to the employer's premises, and the route is attendant with a special risk or hazard, the hazard becomes part of the employment. Special hazards or risks encountered as a result of using a usual access route satisfy the "arising out of" requirement of the Act. Bommarito v. Industrial Comm'n., 82Ill.2d 191, 195, 412 N.E.2d 548 (1980).

In the case at hand, Petitioner was taking her usual route to the bus barn through a parking lot owned and controlled by her employer. The Petitioner gave a history to Crawford Medical Hospital that she tripped over where the gravel and the concrete meet.

Rip York testified he did not see the Petitioner fall.

Terry Roche testified that there was asphalt in the area where Petitioner was found but admitted, as did Mr. York, that sometimes there is loose gravel found on top of the asphalt. (Transcript Pgs. 61-65)

The Commission finds the Petitioner's testimony to be credible. She gave a consistent history to Crawford Medical Hospital. Both of the Respondent's witnesses did not see her fall and their testimony regarding the condition of the parking lot does not dispute Petitioner's history.

The Commission finds that Petitioner proved that she sustained accidental injuries to her left arm and left hand.

The Commission also finds that the Petitioner's injuries to her left arm and hand are causally connected to this accident. No evidence was offered regarding any problems Petitioner had to her left hand and arm prior to this accident. The Petitioner testified credibly that after her toe struck the concrete where the gravel had washed away, she tumbled forward and fell on her left wrist, forearm and left knee.

Petitioner came under the care of Dr. Fenwick, who returned her to work without restrictions on August 11, 2011. Petitioner is entitled to temporary total disability from May 9, 2011 through August 17, 2011. (Petitioner Exhibit 2, Respondent Exhibit 2)

X-Ray's taken on the Petitioner's left wrist and forearm revealed an acute comminuted articular distal left radial fracture with moderate apex dorsal angulation and subtle impaction. There were also arthritic changes in her left wrist. There was also an acute radial neck with minimal impaction. These X-Rays were taken on May 9, 2011. (Petitioner Exhibit 4-7)

Dr. Fenwick performed an open reduction with internal fixation with a volar plate of the left Colles fracture. (Petitioner Exhibit 8)

At the Arbitration hearing the Petitioner testified that she doesn't have "too much" problems with her left elbow. "It just didn't heal right."

She has trouble with it when she washes buses. The next day she can hardly move it. (Transcript Pg. 25)

In regard to her left wrist she testified that she has a lot of trouble with it. She does not have much grip and has pain turning a knob or opening a jar. (Transcript Pg. 25)

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $416.69 per week for a period of 14 2/7 weeks, that being the period of temporary total incapacity for work under §8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $375.00 per week for a period of 97.5 weeks, as provided in §8(e) of the Act, for the reason that the injuries sustained caused the loss of use of the left hand to the extent of 35% and the loss of use of the left arm to the extent of 10%

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner for all medical expenses contained in Petitioner's Exhibit 11 under §8(a) of the Act and 8-2.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

DATED: APR 2 3 2014

Charles J. DeVriendt

Michael J. Brennan

CJD/hf
O: 1/29/14
049

DISSENT

I respectfully dissent from the Majority's Decision to reverse the Arbitrator's Decision.

The Arbitrator found that Petitioner failed to prove she sustained injuries arising out of and in the course of her employment on May 9, 2011. Petitioner did not discuss with Mr. York or Mr. Roche why she thought she fell; she testified that she was never asked.

The records from the Crawford Memorial Hospital emergency department note that Petitioner reported tripping where the gravel met the concrete. Mr. York testified that the bus lot is gravel; the regular parking lot is asphalt with some loose gravel. He testified that there is a concrete drive as well. Where the asphalt meets the concrete drive there is no lip, just a separation. In the area where the concrete meets the gravel there is a one to two inch height difference.

Petitioner testified that she was wearing sandals as she crossed the gravel parking lot and when she came to the place where the gravel met the concrete, the toe of her sandal bent back under her foot. Mr. York did not see Petitioner fall but he did help her to get up.

Mr. Roche testified that the area where there is gravel abutting concrete is not where Petitioner was found. He testified that the area where concrete and gravel meet is "clear down next to Jackson Street" and that it is asphalt in the area where Petitioner was found. The difference in height between the asphalt and the concrete is not noticeable, according to Mr. Roche. He did not think the "gap" could be big enough to fit a dime into.

Petitioner's testimony about her sandal catching on the concrete is not corroborated by the medical records. On the day after the accident Petitioner told Dr. Fenwick that she was unsure what she had tripped over. Petitioner also testified that the gravel was "washed away" from the concrete, forming a hole, but Mr. York denied that he saw any holes on the date of accident. Called for rebuttal, Petitioner marked her path on the Arbitrator's Exhibit #6 and then initialed where she fell, however this is not the same place where Mr. York testified that he found Petitioner.

Compensability depends entirely on whether Petitioner proved that she fell where the gravel met the concrete. The Arbitrator's Decision concluding that Petitioner failed to prove this fact was well reasoned and I would affirm and adopt the Arbitrator's Decision in its entirety.

Ruth W. White

Ruth W. White

ILLINOIS WORKERS' COMPENSATION COMMISSION
NOTICE OF ARBITRATOR DECISION

CAWOOD, MARY JANE
Employee/Petitioner

Case# **11WC034138**

ROBINSON SCHOOL DISTRICT
Employer/Respondent

14IWCC0241

On 1/15/2013, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.10% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

1580 BECKER SCHROADER & CHAPMAN PC
TODD J SCHRODER
3673 HWY 111 PO BOX 488
GRANITE CITY, IL 62040

0180 EVANS & DIXON LLC
MARILYN C PHILLIPS
211 N BROADWAY SUITE 2500
ST LOUIS, MO 63102

STATE OF ILLINOIS)
)SS.
COUNTY OF CHAMPAIGN)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

MARY JANE CAWOOD
Employee/Petitioner

v.

ROBINSON SCHOOL DISTRICT
Employer/Respondent

Case # 11 WC 034138

Consolidated cases: N/A

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Nancy Lindsay**, Arbitrator of the Commission, in the city of **Urbana**, on **November 20, 2012**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☐ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On May 9, 2011, Respondent *was* operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship *did* exist between Petitioner and Respondent.

On this date, Petitioner *did not* sustain an accident that arose out of and in the course of employment.

Timely notice of this accident *was* given to Respondent.

Petitioner's current condition of ill-being *is* causally related to the accident.

In the year preceding the injury, Petitioner earned $32,500.00; the average weekly wage was $625.00.

On the date of accident, Petitioner was 54 years of age, *married* with 0 children under 18.

Petitioner *has* received all reasonable and necessary medical services.

Respondent *has* paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $0 for TTD, $0 for TPD, $0 for maintenance, and $0 for other benefits, for a total credit of $0.

Respondent is entitled to a credit for medical bills paid through its group medical plan for which credit may be allowed under Section 8(j) of the Act.

ORDER

Petitioner failed to prove she sustained an accident that arose out of her employment with Respondent. Petitioner's claim for compensation is denied and no benefits are awarded.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Nancy Lindsey
Signature of Arbitrator

January 10, 2013
Date

JAN 15 2013

THE ARBITRATOR FINDS THE FOLLOWING FACTS:

On May 9, 2011, Petitioner was 54 years of age and employed by Respondent as a school bus driver. After finishing her evening route she parked her bus, locked it up, grabbed some paperwork, and headed across the school's parking lot toward the bus barn to turn in her "stuff." Petitioner described the surface of the lot as part gravel and part concrete. She was walking, wearing sandals, and carrying her purse, a mileage sheet and some bus passes.

Petitioner testified that she walked over an area of the lot where the gravel had washed away and the concrete surface was about 1.5 inches higher than the gravel surface. Petitioner testified that she hit the toe of her sandal against the raised concrete area. The toe of her sandal bent back under her toes causing her to fall forward. The area of the lot where she fell was marked with an "X" on Arbitrator's Exhibits 5 and 6, drawings prepared at trial.

Petitioner tried to catch herself with her hand, and fell onto her left side. She could not get up off the ground and called for assistance. Rip York, a mechanic employed by Respondent, came out of the bus barn, helped her up, sat her on a chair, got ice packs for her arm, and called her husband. Mr. York testified that Petitioner did not say what caused her to fall.

Petitioner fell in an area of the parking lot where an asphalt surface met a concrete surface. There was some gravel on part of the lot. Mr. York testified that he saw where Petitioner fell when he helped her up off the ground. Mr. Roche, Respondent's transportation director, and building, grounds and athletic director viewed Arbitrator's Exhibits 5 and 6, and testified he was familiar with the area marked with the "X," and in fact, it was close to where he parked his car. His parking spot was marked with a "C" on Arbitrator's Exhibit 6. Mr. Roche inspected the area after Petitioner fell. Both Mr. York and Mr. Roche testified that the surface where Petitioner fell was level. Mr. York said there was no lip where blacktop and concrete met. Mr. Roche said any gap between where the concrete and asphalt met was not the width of a dime.

Petitioner's husband took her to Crawford Memorial Hospital where she gave a history of tripping in an area of the parking lot where the gravel and concrete met. She said that she fell onto her left side and complained of pain in her left wrist, forearm and knee. X-rays revealed a left wrist comminuted articular distal left radial fracture with moderate apex dorsal angulation and subtle impaction; a left acute radial neck and distal radial fractures; and, a left radial neck fracture with minimal impaction. She was placed in a temporary splint and a sling, and discharged with instructions to follow up with an orthopedist.

Petitioner saw Dr. Fenwick for left wrist and elbow evaluation on May 10, 2011. She told him that she got off the bus, was walking across a part concrete and part gravel parking lot, and fell. The doctor noted that she was "unsure if or what she tripped over." He diagnosed a left closed fracture of the radial neck and a left closed colles fracture. He told her to continue wearing the splint and sling, authorized her to remain off work, and instructed her to follow-up in a week.

On May 17, 2011, Dr. Fenwick recommended open reduction and internal fixation of the distal radius with Synthes Volar plate. Petitioner was referred to Pro-Rehab Occupational Therapy where she gave a history of falling in a parking lot. The emergency room dressings were removed. Her wrist and forearm were bulked with dressings to simulate post op dressings. A Munster splint was fabricated for her left wrist and forearm. Her forearm and wrist were placed in neutral and she was told to wear the splint fulltime until surgery.

On May 19, 2011 Dr. Fenwick performed an open reduction and internal fixation with a volar plate of the left Colles fracture. The post-operative diagnosis was left closed Colles fracture. Petitioner returned to ProRehab on May 23, 2011. Her splint was reformed with addition of a bivalve piece for greater support. The incision was cleansed and redressed. The therapist recommended skilled rehabilitative therapy in conjunction with a home exercise program.

On May 26, 2011, Petitioner saw Dr. Fenwick's PA, John Combs. She said that she was experiencing some discomfort. She was wearing her brace and reported some finger stiffness. The discomfort in her elbow was improving. Her range of motion was also improving but was limited due to the splint. On physical examination of Petitioner's left elbow Mr. Combs found limited active range of motion with complaints of pain over the dorsal radial head. Examination of the left wrist revealed edema but near normal range of motion. X-rays showed continued slight displacement of the left elbow radial head fracture, and intact left wrist hardware with the fracture in good alignment. Mr. Combs instructed Petitioner to continue her therapy, released her to return to right handed work, and asked her to see Dr. Fenwick in three weeks. Petitioner returned to work at her second job as a night manager in a grocery store for about a week. She took off again because she had been required to use her hand "a lot."

When Petitioner returned to ProRehab on May 26, 2011, her splint was adjusted. The plan was to remove sutures and begin wrist range of motion. ProRehab adjusted the splint again on June 1, 2011, issued a sling for elbow and forearm support, and removed her staples. The plan was to progress with range of motion and scar management.

On June 14, 2011, Petitioner told Dr. Fenwick that her left wrist was doing well. She was wearing the splint when out of the house. She complained of pain when picking up and gripping objects, but was taking no medication for her wrist. Petitioner complained of intermittent elbow pain, and limited elbow range of motion with extension. She was not wearing a splint on the elbow. Petitioner was continuing therapy at ProRehab and home exercises for her wrist and elbow.

Physical examination of the wrist on June 14, 2011 revealed normal sensation; intact incision; and, near normal range of motion. Examination of the elbow revealed no edema or evidence of acute injury, but limited range of motion. X-rays showed distal radius plating revealed left wrist plating with good alignment, and a left elbow radial neck fracture with mild angulation. Dr. Fenwick found Petitioner was healing very well. He told her to continue therapy and wearing the splint/brace. He allowed her to work with no lifting, pushing or pulling over five pounds with the left hand, and asked her to return in four weeks on July 15, 2011.

When Petitioner went to ProRehab on June 14, 2011, her splint was reduced to a volar piece only. Her motion was progressing very well. She denied pain or discomfort, and was able to perform strengthening exercises with no increase in pain. The plan was to continue with strengthening and range of motion.

Mr. Combs saw Petitioner on July 19, 2011. She complained of experiencing left wrist pain after pulling clothes out of her washer and putting them into the dryer. She reported good range of motion and no pain in her left elbow, with an occasional popping sensation. On physical examination of the left wrist he noted radial edema. The incision was intact. There was tenderness over the radial side distal wrist and incision area. Her sensory exam was normal. Her range of motion was near normal, but with pain on extension. Her left elbow examination revealed pain over the cubital radial head, and near normal range of motion. X-rays showed left wrist hardware intact with the fracture healing well, and angulation at the radial head fracture with good healing. Petitioner was advised to continue therapy and wearing the splint/brace. Her lifting limitations were reduced to seven pounds, and she was asked to follow up in four weeks on August 16, 2011.

Petitioner was seen at ProRehab on July 19, 2011. She had been wearing the splint after feeling a pop in her wrist at home, and her range of motion was limited due to inactivity and edema. Range of motion exercises

were restarted due to stiffness. She was independent in her home exercise program. Petitioner returned to work on August 18, 2011.

When Petitioner returned to Dr. Fenwick's office on September 12, 2011, she was working limited from lifting, pushing, or pulling more than seven pounds with her left hand. She reported experiencing pain in her wrist and thumb since her last visit, with occasional numbness at the base of the left thumb. She said that after her bus route her wrist and the top of her hand were swollen, and pain radiated up her forearm. She used ice for pain relief. Regarding her left elbow, she complained of a popping sensation, but no pain, and good range of motion.

On September 12, 2011, physical examination of Petitioner's left wrist revealed normal palpation of soft tissue, tendon and bony structures; normal sensory exam; and, full active range of motion. On physical examination of the left hand the doctor found pain over the first carpometacarpal joint, normal sensation, near normal range of motion, and positive first carpometacarpal compression test. The left elbow physical examination showed normal palpation; and, full range of motion. X-rays revealed left wrist headed radius fracture with intact volar plate; left thumb marked basalar osteoarthritis; and, left elbow healed radial neck fracture. The doctor's assessment was left status post open reduction and internal fixation with volar plate colles fracture; closed fracture of the radial neck; and, CMC arthritis. Petitioner was instructed to continue home therapy and follow up in four weeks. She was referred to ProRehab for evaluation. The doctor noted that her thumb arthritis was causing pain and treatment options included a spika [sic] splint, injection or surgery. He provided no opinion as to the cause of the arthritis or its relationship to the May 9, 2011 incident.

Petitioner was seen at ProRehab on September 12, 2011. She said she had begun experiencing pain at the base of her thumb about one month earlier. She was working full duty. A spica splint was fabricated for her left wrist and thumb. She was told to wear it full time to allow rest at the CMC joint. Therapy of two visits a week or four weeks was recommended.

On October 10, 2011, Dr. Fenwick released Petitioner from care without restriction to follow up as needed. Thereafter, Petitioner continued working for Respondent as a school bus driver. At Arbitration she testified that she experiences weak grip in her left hand, and that her left elbow hurts if she uses it to perform activities such as washing a bus. Her hobbies include crafts, crocheting, and some gardening.

THE ARBITRATOR CONCLUDES:

For an injury to be compensable under the Illinois Workers' Compensation Act it must arise out of the employment, from a risk connected with or incidental to the employment creating a causal connection between the employment and the accidental injury. To determine the compensability of this claim the Arbitrator will analyze the nature of the injury sustained by Petitioner, noting that "risks to employees fall into three groups: (1) risks distinctly associated with the employment; (2) risks personal to the employee, such as idiopathic falls; and (3) neutral risks that have no particular employment or personal characteristics." First Cash Financial Services v. Industrial Comm'n, 367 Ill. App. 3d 102, 105, 853 N.E.2d 799 (2006), Baldwin v. The Illinois Workers' Compensation Commission; Baldwin v. Illinois Workers' Compensation Commission, 409 Ill.App.3d 472 (4th Dist. 2011).

Injuries occurring in employer-controlled parking lots have been found compensable where the injury is caused by some hazardous condition in the parking lot. Conversely, an injury resulting from a condition to which Petitioner would have been equally exposed apart from her employment is not compensable under the Illinois Workers' Compensation Act. Caterpillar Tractor v. The Industrial Commission 129 Ill. 2d 52, 51 N.E. 2d 665, 1989 Ill. Lexis 85,133 Ill. Dec. 454 (1989).

Petitioner testified that she caught her toe in a raised area in the parking lot surface where the concrete met asphalt. She testified that as soon as she fell she knew it was because she hit her toe on the raised area.

There was no mention of tripping over this raised area in the records from Crawford Memorial Hospital medical records, Dr. Fenwick, or ProRehab. Her Application for Adjustment of Claim merely states that Petitioner "fell in parking lot at bus barn." Further, on May 10, 2011, one day after the accident, Dr. Fenwick reported that Petitioner was "unsure if or what she tripped over." Mr. York assisted Petitioner on May 9, 2011, and helped her up after she fell. He testified that Petitioner did not say what caused her to fall. Petitioner's history of tripping over the raised area in the parking lot was not reported prior to the trial of her claim.

The Arbitrator finds more credible the testimonies of Mr. York and Mr. Roche who described the surface of the parking lot where Petitioner fell as level and without defect. Mr. York saw the area when he helped Petitioner up off the ground. Mr. Roche parks his car next to the accident site and inspected the area for "issues," after learning Petitioner had fallen. Based upon their testimonies, the Arbitrator concludes that there was no hazardous condition of the premises which caused or contributed to Petitioner's fall.

Walking on surfaces of gravel, concrete, asphalt, or some combination thereof is not a risk distinctive or peculiar to Petitioner's employment, it is a risk to which the general public is regularly exposed. Nothing in the record distinguishes Petitioner's acts from that of any other person walking in a parking lot. Petitioner was no more likely to fall than she would have been had she not been in the course of her employment.

Therefore, the Arbitrator concludes that Petitioner did fall in a parking lot owned and maintained by Respondent; however, there was insufficient evidence to prove that Petitioner's fall was caused by a defect in that parking lot, or that she was exposed to a greater risk of falling when walking in a parking lot than is the general public. Petitioner's injury was not caused by a risk distinctly associated with her employment.

There is no testimony or other evidence to suggest that Petitioner's fall was idiopathic in nature.

Absent Petitioner's testimony that she caught her toe on a raised area on the parking lot surface, there is no explanation for the cause of her fall. The Arbitrator has found that testimony not credible and uncorroborated by any other evidence. Petitioner's fall is unexplained. For an injury caused by an unexplained fall to arise out of her employment, Petitioner must present evidence which supports a reasonable inference that the fall stemmed from a risk related to that employment, as an injury arising from a neutral risk to which the general public is equally exposed does not arise out of the employment. Baldwin v. Illinois Workers' Compensation Commission, 409 Ill.App.3d 472 (4th Dist. 2011).

As stated above, the Arbitrator finds that Petitioner failed to present evidence sufficient to prove the act of walking across Respondent's parking lot exposed her to a risk greater than that faced by the general public.

Petitioner failed to present evidence sufficient to prove she sustained an accident arising out of her employment. Based upon her conclusion on this issue, it is unnecessary for the Arbitrator to reach the other issues presented at Arbitration. Petitioner's claim is denied.

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