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GILL L. PARKS, APPELLEE, V. MARSDEN BLDG MAINTENANCE, L.L.C., AND ZURICH AMERICAN, APPELLANTS.

811 N.W.2d 306

Filed April 17, 2012. No. A-11-610.

1. **Workers' Compensation: Appeal and Error.** A judgment, order, or award of the compensation court may be modified, reversed, or set aside only upon the grounds that (1) the compensation court acted without or in excess of its powers; (2) the judgment, order, or award was procured by fraud; (3) there is not sufficient competent evidence in the record to warrant the making of the order, judgment, or award; or (4) the findings of fact by the compensation court do not support the order or award.
2. ____: ____. In determining whether to affirm, modify, reverse, or set aside a judgment of the Workers' Compensation Court review panel, a higher appellate court reviews the finding of the trial judge who conducted the original hearing; the findings of fact of the trial judge will not be disturbed on appeal unless clearly wrong.
3. ____: ____. With respect to questions of law in workers' compensation cases, an appellate court is obligated to make its own determination.
4. **Workers' Compensation: Negligence.** When a personal injury is caused to an employee by accident or occupational disease, arising out of and in the course of his or her employment, such employee shall receive compensation therefor from his or her employer if the employee was not willfully negligent at the time of receiving such injury.
5. **Workers' Compensation: Proof.** The two phrases "arising out of" and "in the course of" in Neb. Rev. Stat. § 48-101 (Reissue 2010) are conjunctive; in order to recover, a claimant must establish by a preponderance of the evidence that both conditions exist.
6. **Workers' Compensation: Words and Phrases.** The phrase "arising out of," as used in Neb. Rev. Stat. § 48-101 (Reissue 2010), describes the accident and its origin, cause, and character, i.e., whether it resulted from the risks arising within the scope of the employee's job; the phrase "in the course of," as used in § 48-101, refers to the time, place, and circumstances surrounding the accident.
7. **Workers' Compensation: Trial.** Whether an injury is caused by a work-related accident for workers' compensation purposes is a question of fact.
8. **Workers' Compensation: Witnesses.** As the trier of fact, the Workers' Compensation Court is the sole judge of the credibility of witnesses and the weight to be given their testimony.
9. **Workers' Compensation.** The test to determine whether an act or conduct of an employee which is not a direct performance of the employee's work "arises out of" his or her employment is whether the act is reasonably incident thereto, or is so substantial a deviation as to constitute a break in the employment which creates a formidable independent hazard.

10. ____. The "arising out of" employment requirement of Neb. Rev. Stat. § 48-101 (Reissue 2010) is primarily concerned with causation of an injury.
11. ____. All acts reasonably necessary or incident to the performance of the work, including such matters of personal convenience and comfort, not in conflict with specific instructions, as an employee may normally be expected to indulge in, under the conditions of his or her work, are regarded as being within the scope or sphere of the employment.
12. **Workers' Compensation: Words and Phrases.** The "in the course of" requirement of Neb. Rev. Stat. § 48-101 (Reissue 2010) has been defined as testing the work connection as to time, place, and activity; that is, it demands that the injury be shown to have arisen within the time and space boundaries of the employment, and in the course of an activity whose purpose is related to the employment.
13. ____: ____. An injury is said to arise in the course of the employment when it takes place within the period of the employment, at a place where the employee reasonably may be, and while the employee is fulfilling work duties or engaged in doing something incidental thereto.

Appeal from the Workers' Compensation Court. Affirmed.

Justin K. Burroughs and Jason A. Kidd, of Engles, Ketcham, Olson & Keith, P.C., for appellants.

Harry A. Hoch III and Ronald E. Frank, of Sodoro, Daly & Sodoro, P.C., for appellee.

INBODY, Chief Judge, and MOORE and PIRTLE, Judges.

INBODY, Chief Judge.

I. INTRODUCTION

Marsden Bldg Maintenance, L.L.C., and its workers' compensation insurer, Zurich American (collectively Marsden), appeal the order of the Workers' Compensation Court review panel affirming the trial court's award of benefits to Gill L. Parks. Pursuant to this court's authority under Neb. Ct. R. App. P. § 2-111(B)(1) (rev. 2008), this case was ordered submitted without oral argument. For the following reasons, we affirm.

II. STATEMENT OF FACTS

In 2009, Parks was employed by two separate employers at two different jobs. Parks was employed by the State of Nebraska as a communications technician or specialist,

installing computers and telephones and running cables through drop ceilings. Parks' hours with the State were from 6 a.m. to 3 p.m. Parks was also employed by Marsden as a janitorial supervisor and worked from 4 p.m. to midnight. Parks was assigned by Marsden to the Dex building located at 94th and Dodge Streets and the Omaha Public Power District (OPPD) building located at 114th and Dodge Streets, both in Omaha, Douglas County, Nebraska. As a supervisor, Parks' duties at the Dex building consisted of inspecting the building, cleaning the first and second floors of the building, cleaning the stairwells, and assisting in the cleaning of the fifth floor. Additionally, Parks would clean empty suites in the building whenever necessary.

Generally, Parks reported to the Dex building at 4 p.m. At that time of the day, a door on the south side of the building was open and required no key or access card. However, Parks' supplies were located in a cleaning cabinet in a janitor's closet on the first floor, each of which required a key for entry. The cabinet also contained a pouch with two access cards issued by the building's landlord with codes to track the specific cardholder. The access card was also necessary to gain access to the building after 6 p.m., when the building was locked entirely, and to gain access to the suites in the building. Parks wore his identification badge on a lanyard around his neck with his access card also attached.

On March 11, 2009, Parks traveled to Marsden's office on 72d Street and Mercy Road to pick up cleaning rags for the Dex building. Upon his arrival at the Dex building, Parks clocked in at 4 p.m. Parks went to the janitor's closet, where he realized that he had left his lanyard with his identification badge and access card at his home. Parks locked the closet and left the building to return home to retrieve those items. On his way back to the Dex building, Parks was involved in a serious motor vehicle accident which required the use of the "Jaws of Life" to extricate him from the vehicle. Parks sustained a traumatic brain injury, spinous process fractures of the T7 through T11 vertebrae, a ruptured spleen, a left-side pneumothorax, and multiple rib fractures. At a hospital, Parks underwent a splenectomy, an exploratory laparotomy,

and placement of a left-side tube thoracostomy. On March 31, Parks was discharged from the hospital and transferred to a rehabilitation center, where he remained until April 14. Parks was eventually terminated from Marsden after being placed on leave and not being able to return by the end of his leave date.

On July 6, 2009, Parks filed a petition in the Workers' Compensation Court alleging that he sustained the above-described injuries in an accident arising out of and in the course of his employment with Marsden. Marsden filed an answer denying the allegations and claiming that Parks was not in the course or scope of his employment at the time of the accident.

Prior to trial, the parties agreed that the sole issue at trial would be whether the automobile accident arose out of and occurred in the course and scope of Parks' employment and that after the trial court had reached its decision regarding that issue, a second hearing would be held to determine the remainder of the issues, if necessary. We will set out the testimony given at both hearings together. As a side note, substantial testimony was given at trial regarding the pass, access, or swipe cards and, to avoid any confusion, we shall refer to those cards hereinafter as "access cards."

Parks testified that at the time of trial, he was 53 years old and had graduated from high school, but had no college degree. Parks explained that he had been employed as a communications technician for the State for 30 years, working full time at a rate of $16 per hour. Parks had also worked for Marsden for 5 years. Parks testified that he worked approximately 20 hours a week for Marsden during the first 4 years and eventually shifted into a full-time position working approximately 40 hours a week. Prior to this position with Marsden, Parks worked for other building maintenance companies.

Parks testified that, with Marsden, he would first go to the Dex building and complete his tasks, and then would drive to the OPPD building and complete his tasks there. Parks supervised one other individual at the Dex building, but did not supervise anyone at the OPPD building. Parks testified that his schedule with Marsden was 4 p.m. to midnight, Monday

through Friday. Parks explained that on many occasions, he would work longer than 8 hours for Marsden but was always paid for only 8 hours a day. Timekeeping reports from dates prior to the accident indicate that Parks regularly clocked in for work at 4 p.m. at the Dex building, although sometimes it was a few minutes before and sometimes a few minutes after 4 p.m.

Parks explained that he parked in the general access parking lot at the Dex building and would enter on the south through an open door. Parks was responsible for the janitor's closet key, which was provided by the Dex building engineer and which he kept on his key chain. Parks also was responsible for the cleaning cabinet key, which was given to him by Marsden and which he similarly kept in his possession. Parks testified that in the cleaning cabinet, there was a pouch for the access cards, in addition to cleaning supplies. Parks testified that two access cards were supposed to be kept in the pouch, but Parks kept his access card attached to his identification badge, which he was required to wear in the Dex building as a Marsden employee. Parks testified that the access card was necessary to gain entrance into the building after 6 p.m., in addition to other secured areas which Parks was required to clean. Parks was not required to maintain an access card for the OPPD building and instead had a key which gave him access to the building for cleaning.

Parks testified that on March 11, 2009, he first went to the Marsden office on 72d Street and Mercy Road for supplies, as he often did. Parks testified that he did not receive extra compensation for picking up the supplies and that it was his responsibility to keep the closet stocked. Parks traveled to the Dex building, clocked in at 4 p.m., and unloaded the supplies, when he realized that he did not have his lanyard with the identification badge and access card. Parks testified that he immediately locked up the cabinet and janitor's closet and drove home for those items. Parks testified that his home was approximately 10 minutes away from the Dex building. Parks testified that he had forgotten his lanyard on other occasions and had traveled home to pick it up. Parks explained that without the access card, he would not have been able to complete

his duties, because once the building was "locked down" at 6 p.m., he would not be able to reenter unless he called his coworker and he still needed the access card for access to the suites in the building. Parks testified that he drove straight home and made no other stops. At his home, Parks opened the garage door, went inside to retrieve his lanyard, and started to drive back to work. At approximately 4:34 p.m., Parks was involved in a serious traffic accident, which he does not remember much about.

Parks testified that at that time, he was required to clock in by calling into a newly instituted automated system and also by compiling a handwritten log of the hours he worked, which he turned in every 2 weeks. Parks testified that in 2003, he was given an employee manual, but that he was never given any written or oral instructions regarding what protocol to follow if his access card had been forgotten and, specifically, was never told he was not allowed to leave to pick up his access card, was never told to call someone else to arrange to have the card picked up, and was never disciplined for leaving work to pick it up prior to that time. Parks testified that his supervisor since January 2009, Thomas Collen, did not instruct Parks to call him if Parks forgot his access card. Parks understood that it was Marsden's policy that he was not supposed to leave the building for personal breaks, but testified that he was unaware of any policy about leaving for an identification badge and/or access card.

Parks testified that Collen had been to the Dex building on one occasion and that Parks had contact with Collen only via telephone calls if Parks needed approval to clean additional suites or for issues with the building engineer. Parks testified that Collen had an access card for access to the Dex building, but that on the one occasion Collen stopped by the building, he had called Parks to let him in because Collen did not have his access card with him. Parks testified that the single access card which was left in the pouch on March 11, 2009, was an extra card and that the building manager had instructed Parks and his coworker to not use the extra access card.

Parks explained that he was also no longer employed with the State. His State position required him to install computers,

set up cablelines, and wire drop ceilings and floors. Those tasks required Parks to get underneath floors and above ceilings, climb up and down ladders, get into crawl spaces, carry equipment, take apart cubicles, and move desks. Parks testified that at Marsden, his duties involved physical work such as taking out trash, vacuuming, dusting, carpet and window cleaning, raking, and mopping stairwells. Parks testified that those duties required bending, lifting, and walking. Parks testified that, after the accident, he did not feel he could perform those duties any longer.

Parks also testified that he receives Social Security disability benefits. Parks testified that he takes numerous medications and still has visits with his doctors for pain and for psychiatric matters. Parks also utilizes a "TENS unit" two or three times a day for rib pain and muscle tension.

Parks' wife, Thelma Parks, testified that Parks wore his Marsden identification badge and access card home every night. Thelma explained that in the 2-year period prior to March 11, 2009, Parks had forgotten those items on several occasions and would call Thelma to inform her that he was coming home and would like her to bring the lanyard out to the car. Thelma described the extensive time that Parks spent in the hospital in intensive care and in rehabilitation after the accident, which included both physical and speech therapy. Thelma testified that Parks has difficulty with his speech, oftentimes slurring his words when he gets tired, that Parks' speech is markedly slower, and that Parks has to take time before speaking.

Thelma testified that she tries to keep Parks on a schedule so that he can take his medications on time, which medications include Abilify, Metformin, Lisinopril, Zoloft, Glupride, Hydrochlorot, Tamsulosin, Clonidine, and a Lidoderm patch. Thelma testified that since the accident, Parks had become increasingly forgetful. For example, Thelma explained that before the accident, Parks was in charge of the family finances, but since has forgotten on several occasions to pay bills or put entries in the checkbook, which resulted in overdrafts. Thelma testified that Parks could no longer do other things he did prior to the accident, such as mowing and lawn care, shopping,

cooking, vacuuming, dusting, and other housework. Thelma testified that he could no longer lift or push much weight and lost his balance easily. Parks is no longer able to participate in sports with his son due to pain and cannot run because he now requires the use of a cane. Parks also no longer engages in recreational activities as he did before, such as fishing, and no longer enjoys socializing with friends and family. Thelma testified that they no longer go to movies because Parks cannot sit for long periods of time. Furthermore, Parks no longer drives a vehicle because he frequently experiences dizzy spells.

Thelma testified that throughout their 29 years of marriage, Parks had almost always worked two jobs, but she did not think that he could work any longer. Thelma also testified that since the accident, Parks was increasingly emotional and had become afraid of numerous things, such as thunderstorms. Thelma described that before the accident, Parks had been fun and had enjoyed joking and having a good time, was outgoing, and had a positive attitude, but since that time was "not the same." Thelma testified that Parks takes medication three times a day as scheduled by his doctors and still undergoes medical care and treatment. Thelma testified that he still has appointments at the hospital, at a psychiatric clinic, and with a doctor for chronic pain.

Douglas Saxton, a branch manager for Marsden, testified that Marsden's policy was to "[p]hone in your clock-in number when you arrive" and to clock out on the way out. Saxton testified that the company handbook further outlined a policy requiring employees to have a supervisor's approval before leaving a client's premises. In his deposition testimony, Saxton testified that the policy regarding access cards was that employees were required to have their own access cards and could not share or "'piggyback'" with others, so the employee with the access card would be allowed to enter the building but the remaining employee would need to get his or her card.

Collen testified that he had been operations manager for Marsden since January 2009, which included the supervision of janitorial services at 18 buildings around Omaha. Collen

testified that the Dex building was one such building and that he was Parks' supervisor on March 11, 2009. Collen explained that one of his duties was to keep a building's cleaning supplies stocked through requests from supervisors and that he advised Parks to contact him if the building was running low on supplies. Collen testified that Parks' specific work schedule at the Dex building was supposed to be Monday through Friday from 5 p.m. to 10 p.m., that Collen had never given Parks permission to work earlier than 5 p.m., and that he had no knowledge that Parks was clocking in prior to that time. Collen testified that he did not know what Parks' schedule was at any other building which Parks had duties at, such as the OPPD building, because Collen was not responsible for that building. Collen testified that Marsden has a strict policy that employees are not allowed to deviate from their specific schedules without permission and that he has fired employees for violating that policy. Collen testified that he visited the Dex building every 2 to 3 weeks and that after 5 p.m., the Dex building required an access card for entrance which was not interchangeable between employees, although Collen had the authority to "loan out" his particular card in a situation where an employee might have forgotten his or her access card. Collen testified that if an employee forgets an access card, he or she could call him. Collen explained that Marsden's policy also required employees to clock in when they arrived at a building and to clock out when they left and that he had also fired employees for violating that policy. Collen testified that on March 11, 2009, Parks did not have permission to leave the Dex building.

On cross-examination, Collen testified that until his deposition, he was unaware Parks was clocking in early, and that he had never had any complaints about Parks' early arrival, so he "presumed that [Parks] was keeping to his schedule." Collen testified that Parks was not allowed to pick up supplies from the Marsden office and that he believed Parks was mistaken in his testimony that he went to the office's supply room on several occasions. Collen testified that he was not aware of and did not look at the timekeeping records until a deposition in this case was held, well after the accident. Collen testified

that he was unaware of any policy set forth by Dex that two employees could not use the same access card.

On June 25, 2010, the trial court entered an order finding that Parks' March 11, 2009, accident and injuries arose out of and occurred in the course and scope of his employment with Marsden. Marsden filed an application for review of the trial court's determination. Parks filed a motion to strike the application for review, alleging that the order was not a final order. On September 7, 2010, the review panel determined that the June 25 order was not final and that Marsden's application for review was premature. On November 15, a second hearing was held to resolve the outstanding issues, during which more testimony was given and numerous medical records, physician notes, evaluations, and letters were also received into the record.

On November 24, 2010, the trial court issued an award finding that Parks was temporarily totally disabled from March 12 through August 10, 2009, for a period of 21⅐ weeks and was entitled to $245.02 a week. The trial court found that Parks returned to work with the State on August 11 for $16 per hour and 20 hours a week and that Parks was earning $47.53 a week less without his earnings from Marsden. The court found that Parks worked through December 11 for a period of 17⅐ weeks and was entitled to compensation at a weekly rate of $31.69. The court further determined that Parks' employment with the State was terminated because of his inability to do his job satisfactorily and that he became temporarily totally disabled again from December 12, 2009, through April 22, 2010, and was entitled to 18⅐ weeks of compensation at a weekly rate of $245.02. The court found that on April 23, Parks reached maximum medical improvement and was therefore permanently and totally disabled and entitled to compensation of $245.02 a week.

The trial court determined that based upon expert testimony, future medical care was necessary, and ordered Marsden to pay for such as is reasonable and necessary. The trial court also ordered that Marsden be responsible for various hospital and medical bills and reimbursement to Blue Cross Blue Shield for expenses incurred as a result of the accident.

On December 6, 2010, Marsden again filed an application for review, alleging that the trial court erred entirely in its findings set forth in the June and November 2010 orders. A hearing was held on the matter, after which the review panel affirmed the trial court's award in its entirety. Marsden has now timely appealed to this court.

III. ASSIGNMENTS OF ERROR

Marsden assigns, rephrased and consolidated, that the review panel erred by affirming the following findings made by the trial court: (1) that Parks' accident and injuries sustained in the March 11, 2009, accident arose out of and in the course and scope of his employment with Marsden; (2) that Parks was entitled to temporary partial and temporary total disability benefits; (3) that Parks is now permanently and totally disabled as a result of the March 11 accident; (4) that Marsden was responsible for Parks' past hospital and medical expenses resulting from the accident; (5) that Marsden reimburse Parks and Blue Cross Blue Shield for medical expenses; and (6) that Marsden be responsible for future medical care.

IV. STANDARD OF REVIEW

[1-3] A judgment, order, or award of the compensation court may be modified, reversed, or set aside only upon the grounds that (1) the compensation court acted without or in excess of its powers; (2) the judgment, order, or award was procured by fraud; (3) there is not sufficient competent evidence in the record to warrant the making of the order, judgment, or award; or (4) the findings of fact by the compensation court do not support the order or award. *Pearson v. Archer-Daniels-Midland Milling Co.*, 282 Neb. 400, 803 N.W.2d 489 (2011). In determining whether to affirm, modify, reverse, or set aside a judgment of the Workers' Compensation Court review panel, a higher appellate court reviews the finding of the trial judge who conducted the original hearing; the findings of fact of the trial judge will not be disturbed on appeal unless clearly wrong. *Id.* With respect to questions of law in workers' compensation cases, an appellate court is obligated to make its own determination. *Id.*

V. ANALYSIS

1. "Arising Out of" and "In the Course of"

Marsden first contends that the trial court erred by determining that Parks' accident and injuries sustained in a motor vehicle accident on March 11, 2009, arose out of and in the course and scope of his employment with Marsden. Marsden argues that Parks' actions were a substantial deviation from his employment.

[4] When a personal injury is caused to an employee by accident or occupational disease, arising out of and in the course of his or her employment, such employee shall receive compensation therefor from his or her employer if the employee was not willfully negligent at the time of receiving such injury. See, Neb. Rev. Stat. § 48-101 (Reissue 2010); *Zoucha v. Touch of Class Lounge*, 269 Neb. 89, 690 N.W.2d 610 (2005).

[5,6] The two phrases "arising out of" and "in the course of" in § 48-101 are conjunctive; in order to recover, a claimant must establish by a preponderance of the evidence that both conditions exist. *Zoucha v. Touch of Class Lounge, supra*; *Logsdon v. ISCO Co.*, 260 Neb. 624, 618 N.W.2d 667 (2000). The phrase "arising out of," as used in § 48-101, describes the accident and its origin, cause, and character, i.e., whether it resulted from the risks arising within the scope of the employee's job; the phrase "in the course of," as used in § 48-101, refers to the time, place, and circumstances surrounding the accident. *Zoucha v. Touch of Class Lounge, supra*; *Logsdon v. ISCO Co., supra.*

[7,8] Whether an injury is caused by a work-related accident for workers' compensation purposes is a question of fact. See *Hale v. Vickers, Inc.*, 10 Neb. App. 627, 635 N.W.2d 458 (2001). As the trier of fact, the Workers' Compensation Court is the sole judge of the credibility of witnesses and the weight to be given their testimony. *Zessin v. Shanahan Mechanical & Elec.*, 251 Neb. 651, 558 N.W.2d 564 (1997); *Hernandez v. Hawkins Constr. Co.*, 240 Neb. 129, 480 N.W.2d 424 (1992).

(a) "Arising Out of" Employment

[9,10] The test to determine whether an act or conduct of an employee which is not a direct performance of the employee's work "arises out of" his or her employment is whether the act is reasonably incident thereto, or is so substantial a deviation as to constitute a break in the employment which creates a formidable independent hazard. *Misek v. CNG Financial*, 265 Neb. 837, 660 N.W.2d 495 (2003). The "arising out of" employment requirement is primarily concerned with causation of an injury. *Id.*

[11] All acts reasonably necessary or incident to the performance of the work, including such matters of personal convenience and comfort, not in conflict with specific instructions, as an employee may normally be expected to indulge in, under the conditions of his or her work, are regarded as being within the scope or sphere of the employment. *Id.*; *Cords v. City of Lincoln*, 249 Neb. 748, 545 N.W.2d 112 (1996).

In this case, Parks was not traveling to his home for matters of personal convenience or comfort, but out of what he thought was a necessity arising from his employment with Marsden. The Marsden handbook was referred to by various Marsden employees and received into evidence as an exhibit, although at no time did any of those individuals speak directly as to which portion of the manual they were testifying about. From our review of the record, it appears that there are sections pertinent to this case. Under "General Information," the manual states that "[y]our Manager will specify working hours for your particular job assignment. There is no deviation from such assignment without your Manager's prior permission." The manual further discusses "Effective Security Procedures" and states that employees are to "[n]ever unlock or open a secured door for anyone, even if you recognize them. If they have a right to be there, they will have their own key." The handbook also indicates that employees are required to carry their keys or security cards hung around the neck or attached to a belt loop and that a failure to do so may result in a written warning or termination, but that the keys and security cards are to remain in the building overnight. Specifically, "[i]f an associate takes a set of keys or a security card home, he/she is to notify

his/her supervisor or the Marsden office immediately. It is the associate's responsibility to immediately return the keys to the building or the main office."

The testimony between Saxton and Collen was in conflict with regard to various issues and policies within Marsden, including proper usage of access cards and the new time-clock system which was being introduced at the time of the accident. In his deposition testimony, Saxton testified that the policy regarding access cards was that employees were required to have their own access cards and could not share or "piggyback" with others, so the employee with the access card would be allowed to enter the building but the remaining employee would need to get his or her card, as indicated in the policies. On the other hand, Collen's testimony indicated that employees could share the access cards or that Collen had the authority to loan out his access card. Parks testified that while he was unfamiliar with the various handbook requirements, he did understand that he was required to carry his identification badge and access card with him at the Dex building, that the access card was employee specific, that sharing of those cards was not allowed, and that Parks needed the access card to complete his assigned duties at the Dex building. Parks further testified he had never been told that he was not allowed to leave work to retrieve his access card or that he had to first contact Collen.

Thus, under the facts of this case, we find that while Parks may have deviated from his employment regarding the handbook policy of clocking out and getting permission when leaving the building, that deviation was not substantial and was reasonably incident to his employment with Marsden. Parks' injury arose out of his employment with Marsden, and the trial court did not err in finding as such.

(b) "In the Course of" Employment

[12,13] The "in the course of" requirement of § 48-101 has been defined as testing the work connection as to time, place, and activity; that is, it demands that the injury be shown to have arisen within the time and space boundaries of the employment, and in the course of an activity whose purpose is

related to the employment. *Misek v. CNG Financial*, 265 Neb. 837, 660 N.W.2d 495 (2003). An injury is said to arise in the course of the employment when it takes place within the period of the employment, at a place where the employee reasonably may be, and while the employee is fulfilling work duties or engaged in doing something incidental thereto. *Id.*

In its findings regarding the "in the course of" requirement, the trial court relied upon the case of *Gray v. Broadway*, 146 So. 2d 282 (La. App. 1962), wherein the employee, a truck-driver, reported to work and received instructions from the employer regarding what truck he would be driving. Once the employer left, the employee realized that he had left his driver's license at his home. The employee left work to retrieve the license and was involved in an automobile accident. The Court of Appeal of Louisiana, in reversing the trial court's decision, determined that the employee's trip to retrieve the license was an act naturally related to and incidental to the duties as a truckdriver and was necessary for the employee to drive the truck on the highway and that the employee had already reported to work. Therefore, given those circumstances, the court concluded that the employee's injuries occurred in the course of his employment.

In the case at hand, the accident occurred at approximately 4:34 p.m., after Parks had already arrived at the Dex building to report for work, clocked in, and attempted to begin his duties. A portion of Parks' job required him to travel to different buildings to complete his duties, and Parks testified that he had left the Dex building several times in his 5 years of employment to go home to retrieve the access card, which card was necessary for Parks to fulfill his work duties at the Dex building. Testimony was given by Collen that Parks could fulfill his duties without the access card, while other testimony was also given that each employee was required to have his or her own access card and could not share those cards. Based upon the facts of this case, the trial court determined that Parks' injury arose in the course of his employment. We are mindful that factual determinations made by the trial judge of the compensation court have the effect of a jury verdict and will not be disturbed unless clearly wrong, and therefore, we

find that the trial court was not clearly wrong in making this determination. See, *Misek v. CNG Financial, supra*; *Torres v. Aulick Leasing*, 261 Neb. 1016, 628 N.W.2d 212 (2001).

2. Remaining Assignments of Error

In its brief, Marsden consolidates the remaining assignments of error regarding temporary total disability benefits, temporary partial disability benefits, permanent total disability benefits, reimbursement of medical expenses and mileage, payment of past hospital and medical expenses, future medical care, and reimbursement of any hospital and medical expenses into a single argument that Parks was not entitled to any of these benefits because the trial court erred by determining that the accident arose out of and in the course and scope of his employment. Marsden's brief contains no other argument or support for its contentions that the trial court erred in these determinations.

Thus, in reviewing this argument, we find that, having determined that the trial court did not err in its determination, we need not address the outstanding assignments of error. See, *In re Interest of Leland B., ante* p. 17, 797 N.W.2d 282 (2011); *Curtis v. Curtis*, 17 Neb. App. 230, 759 N.W.2d 269 (2008) (appellate court is not obligated to engage in analysis which is not necessary to adjudicate case and controversy before it).

VI. CONCLUSION

Parks' injury, sustained upon his return home to retrieve the access card for the Dex building, arose out of and in the course of his employment with Marsden. The trial court did not err in this determination, and as such, we affirm the trial court's order and award in its entirety.

Affirmed.