

Workers' Compensation Benefits

What is willful misconduct?

An employee whose willful misconduct was the cause of their workplace injury will often not be able to collect workers' compensation benefits for their injury. Whether or not actions will be found to rise to the level of willful misconduct is hard to predict. As a guideline, consider what the courts have said about what is, and what is not, willful misconduct.

What it is

- An extreme departure from ordinary care in a situation where a high degree of danger is apparent
- Willful implies that the act must be intentional or deliberate - but the intent to commit a *wrongful* act is not required
- Criminal or quasi-criminal conduct
- The intentional doing of something either with the knowledge that it is likely to result in serious injury or with a wanton and reckless disregard of its possible consequences

What it is not

- A mistake resulting from inexperience
- A mistake resulting from excitement
- A mistake resulting from confusion
- Thoughtlessness
- Simple inattention
- Mere negligence
- Wanton carelessness
- Acting imprudently
- Acting unwisely
- Acting on spur of the moment
- Committing an error of judgment
- Acting impulsively or spontaneously in the face of a sudden or unforeseen emergency

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