COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF INDUSTRIAL ACCIDENTS **BOARD NO. 041594-06**

Cynthia Cassidy	Employee
Fall River Housing Authority	Employer
Massachusetts NAHRO SIG	Insurer

REVIEWING BOARD DECISION
(Judges Horan, Koziol and Fabricant)

The case was heard by Administrative Judge Brendemuehl.

APPEARANCES
Martin Kantrowitz, Esq., for the employee
J. Stephen Ladas, Esq., for the insurer

HORAN, J. The employee appeals from a decision denying and dismissing her claim for workers' compensation benefits stemming from a motor vehicle accident in Miami, Florida, while en route to a work-related conference.[1] We affirm.

The employee, the director of finance for the employer in Fall River, was scheduled to attend a professional conference in Atlanta, Georgia, from Tuesday, January 24, 2006 to Friday, January 27, 2006. (Dec. 7.) Prior to traveling to Atlanta, the employee traveled with her husband for a short vacation in Miami, Florida, from Friday, January 20, 2006 to Monday, January 23, 2006. She planned to fly to Atlanta from Miami the evening of the 23rd. That day, as was customary, the employee received her regular day's pay from her employer for the travel time necessary to attend the Atlanta conference.[2] (Dec. 7-8.) On January 23rd, the

[1] While the judge never expressly concluded the employee's attendance at the conference was work-related for c. 152 purposes, the judge's findings of fact make it sufficiently clear that it was.

[2] The same would have been true had the employee departed that day from her home and traveled directly to the Atlanta conference. There is no evidence the employer knew of the employee's vacation plans prior to her accident on January 23, 2006. (Dec. 13, n.8.)

employee was injured in an accident while traveling with her husband by taxi to the Miami airport. (Dec. 8, 10.) The employee was able to complete her travel to Atlanta to attend the conference briefly, but left due to the pain caused by her injuries. (Dec. 9.)

The main issue at hearing was whether the employee's injuries arose out of and in the course of her employment. The judge found:

> The employee was not injured on a route which an employer could expect an individual to take who is domiciled in Massachusetts and who was attending a conference in Atlanta, Georgia. The scenario leading up to the accident in the state of Florida was clearly not anticipated or even contemplated by the employer. When she went on vacation, without assent, approval, or even knowledge of the employer, the employee deviated from the course of her employment.
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> The employee deviated from the usual and expected travel route when she flew to Florida from Rhode Island and from Florida to Atlanta. By her own choice, in deviating from the usual route, she expanded the risk of the street. The expansion of the street risk was not approved by the employer; nor did it confer a benefit to the employer. Rather, the employee had the benefit of a vacation. Furthermore, the employee never regained the route which she could be expected to take to her business destination. She never returned to the original point of deviation.

(Dec. 14-15.) The judge denied and dismissed the employee's claim. (Dec. 16.)

On appeal, the employee argues the decision is contrary to law. We disagree. The employee's weekend trip to Florida took her outside of the normal and expected route of travel from her home in Somerset, Massachusetts,[3] to Atlanta. The judge correctly concluded there was no benefit to the employer owing to the employee's altered itinerary. The employer was not even aware the employee was using the paid travel day, Monday, to depart from Florida to the Atlanta conference. On this record, the employee's deviation from the expected route was not cured until she arrived in Atlanta, the intended work destination. See Belyea's Case, 355 Mass. 721, 723 (1969)(truck driver who deviated from his

[3] The employee and her husband flew out of T.F. Green Airport in R.I. (Dec. 7.)

route to visit a tavern denied benefits as he never regained expected route to employer's garage prior to accident) ; DeCouto v. Town of Wareham, 2 Mass. Workers' Comp. Rep. 131, 133 (1988)("the deviation here consisted of two legs, an outbound leg taking [the employee] away from the prescribed route and the inbound leg which would have brought her back to her route"); compare Harvey's Case, 295 Mass. 300 (1936)(compensation award affirmed as company official acknowledged its travelling employee had discretion to determine route in furtherance of employer's business interests).

We also disagree with the employee's argument that her injuries arose "out of an ordinary risk of the street while actually engaged, with the employer's authorization, in the business affairs or undertakings of [her] employer"[4] because, at the time of the accident, the employee was closer to Atlanta than her home. (Employee br. 12.) Such an approach would produce arbitrary results based solely on a mileage calculation, and ignore the established legal precedents discussed, supra, which invalidate injury claims resulting from purely personal deviations from employer authorized travel. Simply put, the employer did not authorize the employee to travel to the Atlanta conference from her Miami vacation; thus, it cannot be said to have accepted the risks associated with that trip.

Accordingly, the decision is affirmed.

So ordered.

Mark D. Horan
Administrative Law Judge

Catherine Watson Koziol
Administrative Law Judge

Bernard W. Fabricant
Administrative Law Judge

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[4] See General Laws c. 152, § 26.