

Occupational Disease Cases in Illinois
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The Occupational Disease Act of the State of Illinois is a separate law than the Workers' Compensation Act, but it is also administered through the Illinois Workers' Compensation Commission and the remedies provided are basically identical to those provided in the Workers' Compensation Act. The Occupational Disease Act was designed to apply to situations which did not fit neatly into the framework of the Workers' Compensation Act. Frequently, diseases or disabilities can arise from exposure to toxic substances and chemicals in the workplace. Yet the Occupational Disease Act was intended to ease recovery for persons who suffer from an occupational disease which was caused by exposure to harmful agents over a long period of time, rather than a sudden onset or accident.

According to the Occupational Disease Act, an occupational disease means a disease arising out of an in the course of employment. The Act takes a common sense approach as to when a disease arises out of employment. The disease must be traced to the employment by demonstrating an exposure to a hazard of an occupational disease in the workplace, and a disease which can be caused by such hazards.

The difficulties arise, however, in providing exposure since the exposure may have occurred over a long period of time and the company has changed products and equipment or added safety devices which were not in use during the period of exposure. Recently, I had such an experience where safety devices were added to a plant after the employee had left the company. At my request, the arbitrator came to inspect the plant premises and toured the premises with the former employee who pointed out changes which were made in the plant since her departure. In addition, it was an excellent

opportunity for the arbitrator to observe first hand the types of hazards which remained in that plant.

Another means to obtain information regarding what substances and for how long a person has been exposed is subpoena power. An attorney can demand to have an employer produce personnel records, medical records, investigation reports, production schedules, job descriptions and any other information which might indicate an exposure has occurred. Through a subpoena, members of management can also be forced to testify regarding substances that employees were exposed to and for how long.

It should also be noted that under the Occupational Disease Act, if a pre-existing disease, which was not caused by work, was aggravated by exposure to harmful substances at work, any disability resulting from exposure is compensable.

Although the Act is frequently used to compensate diseases which have occurred over long periods of time, the exposure required can be for any period of time, no matter how short. Also, despite the fact that a person may have worked for several companies, and has been exposed at all of them, the claim can be compensable only against the last employer.

Probably the most frequent types of occupational diseases are asbestosis, silicosis, and losses of hearing. But a wide variety of diseases and conditions can be classified as occupational diseases. It is important to remember that this Act, like the Workers' Compensation Act, has notice requirements which could result in the barring of a claim if notice is not timely given. Occupational Disease Act cases can become very complicated and technical, and it is important to consult with an attorney to determine if a claim exists and how to proceed to properly make a claim.