A late personal injury claim – Is the employer still liable?

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A Derbyshire worker who hurt his back in October 2009 due to poorly-maintained equipment has won personal injury compensation from his employer – despite a late claim.

Heavy bags – and badly maintained equipment

49 year-old Desmond Cafferty, a production operative with a mineral processing company, was lifting 25kg mineral bags from a conveyor belt onto a pallet. It was a task which, due to the weight of the bags and the nature of the equipment – the pallets were set on a spring-loaded table designed to safely lower up to 1.2 tonnes of minerals – was normally carried out by 2 people.

An already risky situation was compounded by the fact that one of the spring-loaded tables would not turn on its own once loaded with a certain quantity of material. To stack the bags onto their pallets, Mr Cafferty was forced to stretch over them – an awkward and potentially hazardous manoeuvre.

Lumbar pain

As he positioned a bag on the pallet, he suddenly felt a sharp pain shooting down his back. Despite the twinge in his lumbar region, he continued to work for the rest of the day.

By the following morning the pain had become so severe he visited his GP, who diagnosed sciatica and prescribed pain relief. However, his condition deteriorated to the point where, in April 2010, he required epidural and facet joint injections followed by physiotherapy.

Pain relief only partially successful

Though beneficial, the analgesic treatment did not resolve the problem. Mr Cafferty's constant lower back pain, which radiates into his right leg and foot, has left him unable to work. With his ability to stand severely impaired, he has become depressed and is likely to remain unfit for work, with any future employment prospects seriously compromised.

"We wrote to the company on Mr Cafferty's behalf alleging a number of breaches of its statutory duty as his employer," said Simpson Millar LLP's Ruth Magee. "By failing to ensure the spring-loaded table was working properly, the firm had endangered anyone loading heavy bags onto it.

"Furthermore, Mr Cafferty should not have been expected to undertake that task on his own. These and other oversights, along with the pressure imposed on workers to meet revised production targets and the fact that our client may never work again, left a compelling case for substantial personal injury compensation."

Responsibility denied – but settled anyway

Although the company disputed liability throughout the case a damages settlement was eventually agreed for £26,723.

Delighted with Simpson Millar LLP's service

"I was very happy with the service I received," Mr Cafferty said after the case concluded. "Simpson Millar LLP Solicitors are a very professional and caring law firm."

Top tips to take away:

All employers must make sure equipment is maintained according to health and safety regulations, and that risk assessments are in place.

If you're hurt because of defective equipment at work, you'll probably be able to make a personal injury claim.

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