IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Angel Feliciano, Petitioner	:	
v.	:	
Frank Montero and Uninsured Employers Guaranty Fund (Workers' Compensation Appeal Board), Respondents	:	No. 646 C.D. 2025
	:	Submitted: July 24, 2026

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE STELLA M. TSAI, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE TSAI FILED: November 4, 2026

Angel Feliciano (Claimant) petitions for review of an order of the Workers' Compensation Appeal Board (Board), which affirmed the decision of a Workers' Compensation Judge (WCJ) denying Claimant's claim petitions against Frank Montero (Montero) and the Uninsured Employers Guaranty Fund (Fund) on the basis that Claimant and Montero did not have an employment relationship under the Workers' Compensation Act (Act).[1] After careful review, we affirm.

I. BACKGROUND

On April 29, 2021, Claimant fell and injured his neck and back while working with Montero to repair a garage door. Claimant did not return to work with Montero and ultimately underwent cervical and lumbar fusion surgeries. Claimant filed a claim petition against Montero seeking total disability benefits on

[1] Act of June 2, 1915, P.L. 736, *as amended*, 77 P.S. §§ 1-1041.4, 2501-2710.

February 10, 2023. On March 31, 2023, Claimant filed a claim petition against Montero, as an uninsured employer, and the Fund.[2]

Claimant testified by deposition, through an interpreter, that he worked with Montero as a helper to repair garage doors for a couple of years prior to his April 29, 2021 injury. Certified Record (C.R.), Item No. 20, at 6. Claimant testified that he initially worked with Montero "[o]nce or twice a week" but stated later in the deposition that it was "[o]nce or twice or three times a month." *Id*. at 6, 11-13. Claimant testified that Montero paid him $100 in cash per day of work but clarified later in his testimony that Montero would sometimes pay him $50 per day if they did not finish the job. *Id*. at 6, 26. Claimant testified that Montero would give him work when he had jobs, which was generally in the summer. *Id*. at 12, 14. Claimant was aware that Montero went to Puerto Rico for several months at a time and during those periods Montero did not offer Claimant any work. *Id*. at 15. Claimant could not recall the last time he worked with Montero prior to April 29, 2021. *Id*. at 16.

Montero testified at a hearing before the WCJ that he was 86 years old, having retired and begun collecting Social Security retirement benefits at age 65. C.R., Item 16, at 8-9. Prior to his retirement, he was self-employed in the business of hanging garage doors for more than 40 years. *Id*. at 9. After his retirement, Montero "did a little bit of work on the side" repairing garage doors, but he did not have regular work. *Id*. at 10-11, 26. Montero would only work when former customers or people who learned of him by word-of-mouth would call him regarding issues with their garage doors. *Id*. at 11-14, 19-20. He did not use a sign to advertise for business

[2] The Fund is a special fund in the State Treasury for the purpose of payment of workers' compensation benefits to claimants and dependents where the employer liable for the payments failed to maintain workers' compensation insurance or self-insure its liability. *See* Section 1602 of the Act, 77 P.S. § 2702.

after his retirement, and he did not keep records of his jobs. *Id*. at 12-13, 39. He only worked on small residential doors and turned down jobs involving "big doors." *Id*. at 11, 27, 29. Montero would spend three to four months every winter in Puerto Rico and did not work at all during those periods. *Id*. at 12-13, 30-31. He estimated that he worked "maybe a couple of days[] a month." *Id*. at 28.

Montero testified that he met Claimant eight to ten years prior to his work injury when Claimant was running a garage behind Montero's house. *Id*. at 14, 36. Claimant assisted Montero with garage door jobs for about four years. *Id*. at 37. Montero mostly worked on his own, but Claimant would join him approximately one day every month or two months. *Id*. at 15, 17, 29. Claimant would often ask to go along with Montero on jobs—including on the date of Claimant's injury—offering to use his phone to navigate to the work site. *Id*. at 15, 18-19.

Montero testified that he always paid Claimant in cash, as Claimant "only want[ed] to get paid cash[, . . .] no documents, . . . no signing, no nothing." *Id*. at 25. The amount Montero paid Claimant depended on the amount he received for the job. *Id*. at 17, 25. Generally, Montero would pay Claimant $80 per day, but if Montero received more for a particular job, he would pay Claimant $100. *Id*. at 17-18, 25. For the April 29, 2021 job, Montero paid Claimant $80 the day afterward because he felt bad about the injury. *Id*. at 24-25, 42. Montero often would also buy Claimant lunch because Claimant complained about not having any money and Montero "was trying to be nice to the guy and help him out." *Id*. at 18. Claimant worked other jobs, including as a handyman, during the period when he was helping Montero fix garage doors. *Id*. at 26, 37.

During his testimony at a subsequent hearing, Claimant acknowledged that Montero traveled to Puerto Rico for three-to-four-month periods and would not have

work for Claimant during this time. C.R., Item 19, at 18. Claimant further agreed that even when Montero was in Pennsylvania, there were only occasional instances when they would work together. *Id*.

On August 26, 2024, the WCJ issued a decision denying the claim petitions. The WCJ adopted Montero's testimony as credible and rejected any contrary testimony from Claimant based on the demeanor and comportment of the witnesses at the hearings, as well as Claimant's inconsistent deposition testimony regarding significant facts. Aug. 26, 2024 WCJ Decision, Finding of Fact (F.F.) ¶ 10. The inconsistencies included Claimant's initial assertions that he worked with Montero once or twice per week and Montero paid him $100 per day, which Claimant later contradicted by testifying that he worked with Montero one to three times per month and Montero sometimes paid him $50 per day for small jobs.[3] *Id*.; *see* C.R., Item No. 20, at 6, 11-13, 26.

The WCJ further concluded that Claimant did not meet the definition of an employee under Section 104 of the Act, 77 P.S. § 22, because his employment with Montero was casual in character and Montero was not engaged in regular business.[4] Aug. 26, 2024 WCJ Decision, F.F. ¶ 11. In determining that Montero did not have a regular business, the WCJ noted that Montero was 84 years old at the time of Claimant's injury and basically retired from his business 20 years prior, his work was "sparse and sporadic," all of his jobs were obtained word-of-mouth, and he did

[3] The WCJ further found it "curious" that, when confronted by Montero's counsel regarding whether he had visited a scrap yard in the week before his deposition, "Claimant was initially uncertain and could not recall if he was at the scrap yard . . ., only to be more certain later in his testimony" that he was not at the scrap yard. Aug. 26, 2024 WCJ Decision, F.F. ¶ 10; *see* C.R., Item No. 20, at 18-21.

[4] Section 104 of the Act defines an employee, in part, as "[a]ll natural persons who perform services for another for a valuable compensation, exclusive of . . . persons whose employment is casual in character and not in the regular course of the business of the employer."

no work at all for three to four months per year while in Puerto Rico. *Id*. The WCJ additionally observed that Montero mostly worked by himself, only accepted small garage door jobs, did not advertise, was paid in cash, and did not maintain records. *Id*. The WCJ further found that Montero and Claimant had a casual employment relationship where the "frequency and timing of the jobs were erratic," Claimant was an "acquaintance in the neighborhood" and not required to accept the offer for any job, payment was in cash, the rate of compensation varied, and no deductions were made for taxes. *Id*. As Claimant and Montero did not have an employment relationship within the scope of the Act, the WCJ determined that Claimant was not entitled to workers' compensation benefits. *Id*., F.F. ¶ 11, Conclusions of Law ¶¶ 1, 2.

On April 24, 2025, the Board issued an opinion and order affirming the denial of the claim petitions. The Board concluded that the WCJ did not err in determining that Claimant failed to meet his threshold burden of establishing an employer-employee relationship with Montero, noting that the WCJ's credibility determinations were entitled to substantial deference before the Board. Apr. 24, 2025 Board Opinion at 6-7. Claimant thereafter petitioned this Court for review.

II. ISSUE

On appeal,[5] Claimant argues that the WCJ committed legal error by ruling that he lacked an employment relationship with Montero under the Act. Claimant asserts

[5] This Court's review is limited to determining whether necessary findings of fact are supported by substantial evidence, whether an error of law was committed, or whether constitutional rights were violated. *Gilbert v. S. Whitehall Twp. (Workers' Comp. Appeal Bd.)*, 341 A.3d 212, 218 n.7 (Pa. Cmwlth.), *appeal denied*, 349 A.3d 806 (Pa. 2025). The WCJ is the factfinder and has sole authority to assess credibility and resolve conflicts in the evidence. *W. Penn Allegheny Health Sys., Inc. v. Workers' Comp. Appeal Bd. (Cochenour)*, 251 A.3d 467, 475 (Pa. Cmwlth. 2021).

that his and Montero's testimony were "in agreement as to the basic facts" that Montero took part-time, seasonal garage door repair work, hired Claimant as an assistant at the rate of $80 or $100 per day, and Claimant was injured during one of these jobs. Claimant's Brief at 8. Claimant contends that the fact that he did not work with Montero daily did not render his injury non-compensable. Claimant further argues that, contrary to the WCJ's decision, "there is no standard definition" of the employer-employee relationship and "case law makes it clear that even a person responding in an emergency can become an employee under the Act." *Id.* at 7.

III. ANALYSIS

In a claim petition proceeding, the claimant bears the burden of proving all necessary elements to support an award of benefits, including that an employment relationship existed at the time of injury. *Universal Am-Can, Ltd. v. Workers' Comp. Appeal Bd. (Minteer)*, 762 A.2d 328, 330 (Pa. 2000); *Gilbert*, 341 A.3d at 223. "[A] determination regarding the existence of an employer[-]employee relationship is a question of law that is determined on the unique facts of each case." *Universal Am-Can*, 762 A.2d at 330-31.

The Act defines "employer" and "employe" as synonymous with "master" and "servant" and further provides that an employee "includes . . . [a]ll natural persons who perform services for another for a valuable consideration, exclusive of . . . persons whose employment is casual in character and not in the regular course of the business of the employer." Sections 103 and 104 of the Act, 77 P.S. §§ 21, 22. The casual employment exception includes three elements: "(1) the presence of valuable consideration; (2) whether the employment was casual in character; and (3) whether the employment was in the regular course of employer's business."

Brookhaven Baptist Church v. Workers' Comp. Appeal Bd. (Halvorson), 912 A.2d 770, 776 (Pa. 2006). "Pennsylvania courts have construed this statute narrowly concluding that claimants are entitled to compensation unless they are found to be both casual employees **and** acting not in the regular course of the employer's business." *Indus. Abrasives, Inc. v. Workmen's Comp. Appeal Bd. (Caceres)*, 630 A.2d 547, 548 (Pa. Cmwlth. 1993) (emphasis in original). As there is no dispute that Claimant received valuable consideration for the work performed, we solely address whether Claimant's employment with Montero was casual in character and not in the regular course of Montero's business.[6]

A. CASUAL IN CHARACTER

Courts of this Commonwealth have stated that "employment is casual in character where it is occasional, irregular, or incidental as distinguished from regular and continuous" or "comes about by chance, fortuitously, and for no fixed duration of time." *Id*. at 777 (quoting *Blake v. Wilson*, 112 A. 126, 129 (Pa. 1920), and *Williams v. Baptist Church,* 186 A. 168, 170 (Pa. Super. 1936)). Courts have further explained that employment is deemed casual under the Act "if a person is employed only occasionally, at comparatively long and irregular intervals, for limited and temporary purposes, the hiring in each instance being a matter of special

[6] In *Brookhaven*, the Supreme Court recognized a "conflict" in its caselaw, where some past decisions have interpreted the Act as requiring that "a person must be both casually employed **and** not engaged in the business of the employer," while other cases have found that if either the casual employment or regular course of business element were met, the claimant would be excluded from coverage. *Brookhaven*, 912 A.2d at 778 (emphasis in original). As it was not necessary for the resolution of that case, the *Brookhaven* Court did not resolve the conflict in the interpretation of the Act. *Id*. However, consistent with the precedent of this Court, we conclude that both elements must be present to find that a claimant falls within the exclusion. *See Indus. Abrasives*, 630 A.2d at 548; *Gill v. Workmen's Comp. Appeal Bd. (Norton)*, 425 A.2d 1206, 1208 n.1 (Pa. Cmwlth. 1981) ("The claimant is entitled to compensation unless the employment is proved to be both casual and not in the regular course of petitioners' business.").

engagement." *Indus. Abrasives*, 630 A.2d at 549 (quoting *Cochrane v. William Penn Hotel*, 16 A.2d 43, 44 (Pa. 1940)).

In *Brookhaven*, the Court found that a church member and trustee hired by the church to mow the grass on its grounds weekly during the growing season was engaged in seasonal work, rather than the "irregular, sporadic, or incidental" work characteristic of casual employment. *Brookhaven*, 912 A.2d at 773, 778. In *Industrial Abrasives*, this Court held that a machinist in an abrasives factory was engaged in regular, not casual, employment while working his "separate, part-time job" boarding windows at the factory, as that work was planned in advance, completed over a three-month period before the injury, and scheduled to continue into the future. *Indus. Abrasives*, 630 A.2d at 547-49. By contrast, in *Blake*, the Supreme Court determined that a teacher hired by a farmer to finish construction of a silo on the farm was casually employed, as the work resulted from "two fortuitous events," the expiration of the school term and the farmer's desire to complete work on the silo. *Blake*, 112 A. at 129. In *Callihan v. Montgomery*, 115 A. 889 (Pa. 1922), the Court held that an oil-well operator's employment of a mechanic to repair a pump engine was casual, and not "'regular,' 'systematic,' 'periodic,' [or] 'certain.'" *Id*. at 890, 893 (citation omitted).

In the present matter, Montero's credited testimony showed that Claimant only joined him on jobs once per month or once every other month and not at all during the three-to-four-month period Claimant spent in Puerto Rico every year. C.R., Item 16, at 12-13, 15, 17, 30-31. Claimant, who also worked as a handyman, often approached Montero to ask if he could go along on jobs, promising to use his phone to find the job sites. *Id*. at 15, 18-19, 26, 37. Montero paid Claimant varying amounts for the work depending on what Montero received but always cash because

Claimant did not want a record of his employment. *Id*. at 17, 25. Montero also sometimes bought Claimant lunch because Claimant complained of lacking money. *Id*. at 18. The evidence thus demonstrates that Claimant's employment with Montero was not regular or continuous but instead occasional, irregular, without fixed duration, and came about fortuitously—often at Claimant's own request. *Brookhaven*, 912 A.2d at 777; *Callihan*, 115 A. at 893; *see also McManus v. Kuhn*, 168 A.2d 618, 619-20 (Pa. Super. 1961) (holding that claimant who worked odd jobs to pay off small sums of money borrowed to purchase alcohol from defendant's store was casually employed where he performed the work on his own initiative and without set or agreed upon wages). Therefore, we agree with the WCJ and Board that the employment of Claimant was casual in character under the Act.

B. REGULAR COURSE OF BUSINESS

The "regular course of the business of the employer" refers "to the normal operations which regularly constitute the business in question, excluding incidental or occasional operations arising out of the transaction of that business." *Indus. Val. Bank & Tr. Co. v. Workmen's Comp. Appeal Bd. (Tomasetti)*, 332 A.2d 882, 885 (Pa. Cmwlth. 1975) (quoting *Callihan*, 115 A. at 895). In analyzing this element, courts generally presume that the putative employer engages in some business and therefore the question is whether the specific work in which the claimant was engaged related to the employer's regular business operations or some incidental function of the business. *See, e.g.*, *Brookhaven*, 912 A.2d at 779 (holding that "maintenance and repair of church property and keeping the property in presentable condition is generally considered the usual course of business" of a church); *Indus. Val.*, 332 A.2d at 885 (finding that the "occasional moving of filing cabinets, while certainly related to the conduct of a banking business, is simply too remote from the

actual, day-to-day operations of a bank" to be in its regular course of business). However, in *Marsh v. Groner*, 102 A. 127 (Pa. 1917), our Supreme Court held that the "regular course of business" element is not satisfied where the putative employer is not engaged in any business at all. *See id*. at 128-29 (holding that claimant's injury was non-compensable under the casual employment exception of the Act where a homeowner who engaged the claimant to perform plastering work on her home for nearly a year was "not engaged in any business within the proper meaning of that term").

Like in *Marsh*, the WCJ found that Montero did not operate any business at the time of Claimant's injury, and therefore Claimant could not have been injured during the "regular course" of Montero's business. *See* Aug. 26, 2024 WCJ Decision, F.F. ¶ 11 ("If [Montero] had no regular business, then logically Claimant could not have been injured in the regular course of business of [Montero]."). The record supports this conclusion. Montero retired from his garage door repair business and began collecting Social Security at 65, but he continued to perform "a little bit of work on the side" until the age of 84 when Claimant's injury occurred. C.R., Item 16, at 8-12, 26. Montero did not advertise or keep business records, and he only took on occasional work a few days per month when he received calls from former customers or people who heard about him by word-of-mouth. *Id*. at 11-14, 19-20, 39. Indeed, Montero turned down larger projects and did not perform any work during the winters when he was in Puerto Rico. *Id*. at 11-13, 27, 29-31. Accordingly, we determine that the "regular course of business" element was not met here, as Montero was not engaged in any business at the time of Claimant's injury. *Marsh*, 102 A. at 129.

IV. CONCLUSION

As the evidence showed that Claimant's employment was casual in character and not in the regular course of Montero's business, we conclude that Claimant did not meet his burden of establishing an employer-employee relationship necessary to support an award of benefits under the Act. We therefore affirm the order of the Board, which affirmed the order of the WCJ denying Claimant's claim petitions.

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STELLA M. TSAI, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Angel Feliciano,	:	
Petitioner	:	
	:	
v.	:	
	:	
Frank Montero and Uninsured	:	
Employers Guaranty Fund	:	
(Workers' Compensation	:	
Appeal Board),	:	
Respondents	:	No. 646 C.D. 2025

O R D E R

AND NOW, this 4th day of November, 2026, the order of the Workers' Compensation Appeal Board is hereby AFFIRMED.

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STELLA M. TSAI, Judge