

**OPINION
51-210**

June 11, 1951 (OPINION)

WORKMEN'S COMPENSATION

This is in answer to your request for an opinion on the following question - are the North Dakota workmen's compensation statutes intended to be final and conclusive in determining all the employees rights against the employer and insurer growing out of an injury in the course of the employment in the state of North Dakota.

The pertinent sections that govern this are section 65-0108, which states,

"An employer securing the payment of compensation to his employees by contributing premiums to the fund shall be relieved thereby of all liability for personal injuries or death sustained by his employees, and the persons entitled to compensation under the provisions of this title shall have recourse therefor only to the fund and not to the employer.";

section 65-0101, which substantially states,

"* * * relief is hereby provided regardless of questions of fault and to the exclusion of every other remedy, proceeding, or compensation, except as otherwise provided in this title.";
and

section 65-0506,

"The payment of compensation or other benefits by the bureau to an injured employee, or to his dependents in case death has ensued, shall be in lieu of any and all rights of action whatsoever against the employer of the insured or deceased employee."

The language of these sections is clear and definite, that when an employer contributes to the fund he shall be protected from all liabilities for personal injury. The North Dakota workmen's compensation law and coverage is compulsory and is not within the discretion of the employer whether or not he shall participate in the fund. This clearly shows that the fund was intended to be completely exclusive.

It is therefore my opinion that the injured employee, injured in the course of employment notwithstanding third party tort feasor, shall have recourse only to the fund.

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