CASE NO. 5933 CRB-7-14-5 : COMPENSATION REVIEW BOARD
CLAIM NO. 700156842

JOSE RICARDO LOPEZ
CLAIMANT-APPELLEE : WORKERS' COMPENSATION COMMISSION

v.

: APRIL 29, 2015

LOUIS PANNONE, INDIV.
EMPLOYER
NO RECORD OF INSURANCE
RESPONDENT-APPELLANT
and

GREGORY PANNONE, INDIV.
EMPLOYER
NO RECORD OF INSURANCE
RESPONDENT-APPELLEE
and

STEVEN LECZO, INDIV.

and

SECOND INJURY FUND
RESPONDENT-APPELLEE

APPEARANCES:

The claimant was represented by Albert Barr, Esq., Barr & Morgan, 22 Fifth Street, Stamford, CT 06905.

The respondent Louis Pannone was represented by James P. Mooney, Esq., Williams Moran, LLC, 268 Post Road, Fairfield, CT 06824.

The respondent Gregory Pannone was represented at the trial level by James P. Mooney, Esq., Williams Moran, LLC, 268 Post Road, Fairfield, CT 06824. Gregory Pannone did not participate in the appeal proceedings.

At the trial level Steven Leczo, 1143 Shippan Avenue, Stamford, CT 06902, appeared on his own behalf. He did

not participate in the appeal proceedings. As the trial commissioner found he was not an employer.[1]

At the trial level the Second Injury Fund was represented by Kenneth Kennedy, Esq., Assistant Attorney General, Office of the Attorney General, 55 Elm Street, Hartford, CT 06141-0120. The Fund did not participate in the appeal proceedings.

This Petition for Review from the April 17, 2014 Finding and Award of the Commissioner acting for the Seventh District was heard December 19, 2014 before a Compensation Review Board panel consisting of the Commission Chairman John A. Mastropietro and Commissioners Stephen B. Delaney and Christine L. Engel.

OPINION

JOHN A. MASTROPIETRO, CHAIRMAN. This appeal focuses on a single question: does the statutory exemption in Chapter 568 for part-time household employees (§ 31-275(9)(B)(iv) C.G.S.)[2] cover workers on residential real property that the respondent uses as rental property and does not use as their residence? The trial commissioner in this case concluded that statute did not apply when the claimant was injured while repairing a house that the respondent did not occupy and subsequently used as a rental property. The respondent Louis Pannone has appealed[3] arguing the statute makes this injury noncompensable. We reject this statutory interpretation as it is

[1] See April 17, 2014 Finding and Award, Conclusion C.

[2] The statute reads as follows:
(9) (B) "'Employee" shall not be construed to include:
(iv) Any person engaged in any type of service in or about a private dwelling provided he is not regularly employed by the owner or occupier over twenty-six hours per week;"

[3] Although the Finding and Award was against both Louis Pannone and Gregory Pannone as employers subsequent to filing the appeal Gregory Pannone advised this tribunal in writing he did not wish to continue this appeal and as of the hearing before the Compensation Review Board Louis Pannone was the sole active appellant.

inconsistent with the plain meaning of the statute and would lead to absurd or unworkable results. See § 1-2z C.G.S. Therefore, we affirm the Finding and Award.

Although this case hinges on statutory interpretation, a review of the pertinent facts in this claim is essential. On June 8, 2010 the claimant arrived at a vacant residential property, 50 Middlebury Street, Stamford, CT, to do work. He testified that the respondent Louis Pannone directed him to wash the rear part of the house. The claimant asked another man working on the house, Steven Leczo, for assistance and Mr. Leczo declined, stating he had his own work to do.[4] While washing the house the claimant fell off a ladder and sustained significant injuries. The claimant testified Mr. Leczo wanted to call 911 for an ambulance, however Louis Pannone and Gregory Pannone (Louis Pannone's brother) decided they would transport the claimant to the hospital in Gregory Pannone's car. Subsequent to the injury the claimant said Gregory Pannone let him stay at his home for two weeks, paid him $200 a week during this period and transported the claimant to medical appointments. The claimant said Louis Pannone, however, was hostile to him and disavowed any interest in him after his injury.

The claimant testified as to having done work at various times for the Pannone brothers since 1998. He had worked at an Old Greenwich pizzeria owned by Louis Pannone and had done a variety of interior and exterior jobs on various properties owned by the Pannone brothers. He said in the summer of 2009 his usual pay rate was $650 a week, with another $100 if he worked on Saturday or $150 if he worked on Sunday. He was always paid in cash by receiving an envelope from Louis Pannone. He said as he did not have a car he would take a bus to work or be driven by Mr. Leczo, Louis Pannone, or

[4] Mr. Leczo was originally a respondent in this case but the trial commissioner concluded he was not the claimant's employer and dismissed the claim against him.

Louis Pannone's wife. He said that he would get his tools from Louis Pannone's garage and did not bring them on a bus. He said he received his work instructions from Louis Pannone. During the autumn and winter of 2009-2010 he continued to work on various properties owned by the Pannone's, including the home of their father and their brother.

The trial commissioner noted the testimony of Louis Pannone and Gregory Pannone. Louis Pannone said his full time job was as a police sergeant in Greenwich, but that he also was a managing partner in a pizzeria and had owned and maintained rental property in Norwalk until July 2010. He was a member in an LLC with Gregory Pannone, LSP Holdings, LLC, which received rental payments from the Stamford Housing Authority for the 50 Middlebury Street property as well as payments for the Norwalk rental properties. He acknowledged the claimant had been a pizza maker in his restaurant for a decade, and confirmed that the claimant had done some residential maintenance work for him; while disputing some other elements of the claimant's narrative. He denied hiring the claimant to work at 50 Middlebury Street and suggested Mr. Leczo had procured his services and paid the claimant, and further said that on the day of the injury the claimant just showed up at the property. He admitted he provided the power washer used at 50 Middlebury Street on the day of the injury, but denied communicating with the claimant except shortly after the injury happened.

Gregory Pannone also testified at the hearing. He testified he purchased the 50 Middlebury Street property at the end of April 2010 and considered it a "personal purchase for personal reasons for my family" but neither he nor any member of his family moved into the house. On the other hand, the commissioner found he directed his brother to make application using LSP Holding LLC for a Section 8 tenant for the

premises. The premises was unoccupied at all times between the purchase and the claimant's injury and was in the midst of a multi-week refurbishment process which concluded at the end of June 2010. Gregory Pannone said he was a partner with his brother in their Greenwich pizzeria as well as a partner in LSP Holdings. He was also a partner or manager of numerous other businesses, including a tavern in Armonk, NY and two courier services. The commissioner noted that the two Pannone brothers offered somewhat confusing testimony as to Gregory's role with LSP Holdings, Louis Pannone testified Gregory had to join the LLC in order to obtain the Section 8 rental payments for the Middlebury Street property. Findings, ¶ 41e. Gregory Pannone first testified LSP Holdings was his brother's business but he also confirmed he authorized his brother to seek a Section 8 tenant for the property. Findings, ¶ 45. Gregory Pannone confirmed the claimant had done various jobs for him on his own, along with working with Mr. Leczo and was always paid in cash, although he was uncertain as to his hourly rate of pay. On the day of the claimant's injury Gregory Pannone said Mr. Leczo called him and he arrived at the work site finding the claimant in pain, and transported him to the hospital. After his discharge he offered to have the claimant stay in his home, as he wanted to have the claimant properly taken care of and the claimant accepted his offer. Gregory Pannone corroborated the claimant's testimony of having been provided cash and transportation to appointments for a period after his hospital discharge.

Based on this testimony the trial commissioner concluded the claimant sustained bodily injury falling off a ladder at 50 Middlebury Street, Stamford, CT. The claimant was not an independent contractor, a casual employee, or an employee of Mr. Leczo. Louis Pannone and Gregory Pannone therefore were the claimant's employers at the time

of his injury as collectively they were in control of the premises, provided the tools and Louis Pannone directed the claimant as to what to do. The trial commissioner further found the testimony of the Pannone brothers, in an effort to discredit the claimant's testimony, was undermined by their conduct as they failed to properly document the claimant's work hours and provide tax documentation such as a W-2 or 1099 form.

The conclusions reached by the trial commissioner at the heart of this appeal were as to the applicability of the respondent's defense that the claimant's injury was statutorily deemed noncompensable. They read as follows.

> D. The property located at 50 Middlebury Street, Stamford, Connecticut was an investment property owned by Gregory Pannone, individually, and was not used as a "private dwelling" by him or anyone else involved in this litigation on the claimant's date of injury. From the date of purchase in April 2010 until its first occupancy in July 2010, the property was vacant and in the process of being prepared for use as a Section 8 rental property. Accordingly, the "twenty-six (26) hour rule" embodied in the provisions of Conn. Gen. Stat. Sec. 31-275(9)(B)(iv) does not apply to the circumstances of this claim, regardless of Gregory Pannone's original "intent."
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> E. Louis and Gregory Pannone were in the business of commercial property management, as well as various other businesses such as law enforcement, restaurateur and courier service manager. Louis Pannone owned a rental property in Norwalk, Connecticut and Gregory Pannone owned the rental property at 50 Middlebury Street in Stamford, Connecticut. In the weeks preceding the claimant's date of injury at the 50 Middlebury Street property, the brothers collaborated in the process of interior and exterior repair and cleaning, as well as yard cleanup in preparation for Section 8 approval and a July 1, 2010 occupancy date. It matters not that they had no formal business name or entity with which to associate themselves; it is the nature and scope of their collective activities in connection with the property located at 50 Middlebury Street that place them in the business of commercial property management. Accordingly, the Pannone brothers cannot deprive the claimant of employee status under the provisions of Conn. Gen. Stat. Sec. 31-275(9)(B)(ii), by claiming that the employment of the

> claimant was "casual", or that it was "other than for the purpose of the employer's trade or business."

The trial commissioner found the respondents responsible for indemnity and medical benefits due to the claimant. The respondents filed a Motion to Correct and a Motion for Articulation. The trial commissioner denied both motions in their entirety. The respondent Louis Pannone has commenced this appeal. His contention is that the trial commissioner improperly determined that 50 Middlebury Street, Stamford was not a "private dwelling" at the time of the claimant's injury. The appellant believes that for the purpose of § 31-275(9)(B)(iv) C.G.S. the claimant sustained his injury at a "private dwelling." The appellant further does not believe that the claimant can establish that he regularly worked in excess of 26 hours per week at this location. As a result the appellant believes the Finding and Award is legally flawed. We disagree and find the trial commissioner properly applied the statute.

The Supreme Court in State v. Kevalis, 313 Conn. 590 (2014) has recently restated the appropriate standard for interpreting a statute. We believe it is applicable to the dispute herein.

> In construing a statute, the first objective is to ascertain the intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of the case, including the question of whether the language actually does apply. . . . General Statutes § 1-2z directs this court to **first consider the text of the statute and its relationship to other statutes to determine its meaning.** Only if we determine that the statute is not plain and unambiguous and does not yield absurd or unworkable results may we consider extratextual evidence of its meaning, such as the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter . . . . The test to determine ambiguity is whether the statute, when read in context, is susceptible to more

> than one reasonable interpretation. . . . We presume that the legislature did not intend to enact meaningless provisions. . . . [S]tatutes must be construed, if possible, such that no clause, sentence or word shall be superfluous, void or insignificant . . . . (Citations omitted; footnote omitted; internal quotation marks omitted.)

Id., 599-600. (Emphasis added.)

The Supreme Court in Derrane v. Hartford, 295 Conn. 35 (2010) also explained, in a case interpreting the terms of Chapter 568,

> [w]hen a statute is not plain and unambiguous, we also look for interpretive guidance to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter . . . .

Id., 43.

In another case interpreting the provisions of Chapter 568, Gamez-Reyes v. Biagi, 136 Conn. App. 258 (2012), the Appellate Court held "… [i]n determining the meaning of a statute . . . we look not only at the provision at issue, but also to the broader statutory scheme to ensure the coherency of our construction.'' Id., 274.[5]

The appellant argues that the claimant was injured while working at a "private dwelling" within the terms of § 31-275(9)(B)(iv) C.G.S. and that a residential property which was not occupied at the time of the claimant's injury, nor subsequently occupied by the owner or a related party, constitutes a "private dwelling" within the terms of our statute. The appellant argues that since the property was not zoned by the city for use as

[5] See also State v. Moran, 264 Conn. 593, 599 (2003) where in discussing statutory interpretation of an allegedly ambiguous statute the Supreme Court said, "[w]e do not, however, end with the language. We recognize, further, that the purpose or purposes of the legislation, and the context of the language, broadly understood, are directly relevant to the meaning of the language of the statute."

"commercial property" it was a "private dwelling" and cites § 46a-64b(2) C.G.S. for this position. This statute defines the term "dwelling" as follows:

> (2) "Dwelling" means any building, structure, mobile manufactured home park or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, mobile manufactured home park or portion thereof.

The appellant believes that this definition of "dwelling" is congruent with the definition of the term "private dwelling" in Chapter 568. We are not persuaded. We note initially that the statute relied upon by the appellant lacks the word "private." This is not an insignificant difference as upon reviewing the context of the two statutes we may quite reasonably conclude that they stand for two inconsistent things.

The appellant relies on a definition used in a statute that governs human rights and opportunities under Connecticut law and does not focus primarily on the state's regulation of employer-employee relations. The definition used by the appellant is within a statute entitled "**Discriminatory Housing Practices: Definitions"** which explicitly limits the applicability of these defined terms to "sections 46a-51 to 46a-99, inclusive." Therefore, we do not believe the General Assembly intended to use this definition to govern matters outside the purview of the Commission on Human Rights and Opportunities. Moreover, as we review how this statute interacts with similar statutes, we find that the types of residences within its jurisdiction may not overlap at all with the traditional bounds of the "private dwelling" statute under Chapter 568.

The discriminatory housing practices proscribed by the human rights statute do not involve the mere ownership or use of real property. The statute cited by the appellant primarily governs the use of property as a business. See § 46a-64c C.G.S. The

"discriminatory housing practices" delineated by that statute deal with "the sale or rental" of a "dwelling"; which we would generally regard as a commercial activity. Indeed there are specific exemptions under that statute pursuant to § 46a-64c(b)(1) C.G.S. which we believe are congruent with the long understood scope of § 31-275(9)(B)(iv) C.G.S. See § 46a-64c (b)(1)C.G.S.

> (b)(1) The provisions of this section **shall not apply** to (A) the rental of a room or rooms in a single-family dwelling unit **if the owner actually maintains and occupies part of such living quarters as his residence** or (B) a unit in a dwelling containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, **if the owner actually maintains and occupies the other such living quarters as his residence.**

(Emphasis added.)

The statute relied upon by the appellant therefore provides an exemption for residential property which is occupied by its owner. This exemption is more congruent to the concept of "private dwelling" than commercial transactions of residential real estate regulated by the rest of the statute relied upon by the appellant. We also note that the definition of "dwelling" under common law implies it a place where an owner or tenant lives. See Black's Law Dictionary 8th Edition, which defines "dwelling house" . . . "often shortened to *dwelling*" (emphasis in original) as "[t]he house or other structure in which a person lives; a residence or abode."[6]

Since the plain meaning of the statute cited by the appellant does not compel the result he seeks, see § 1-2z C.G.S., we look at related statutes to Chapter 568 and the legislative history behind § 31-275(9)(B)(iv) C.G.S. to ascertain if the trial

[6] There is long Connecticut precedent noting that landlords may have a different agenda as to the ownership of real property than owner-occupants or tenants; see e.g., Dinan v. Board of Zoning Appeals, 220 Conn. 61, 74-75 (1991).

commissioner's statutory interpretation was in error. We have reviewed various statutes related to employer-employee relations and note that a statute governing the minimum wage, § 31-58(e) C.G.S., provides a limited statutory exemption for those individuals "in domestic service in or about a *private home* . . . " or "any individual engaged in baby sitting." (Emphasis added.) The statute governing unemployment compensation , § 31-222 C.G.S. defines "domestic service", in that it "includes all service for a person in the operation and maintenance of a *private household*, local college club or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation." (Emphasis added.) See § 31-222(a)(1)(J) C.G.S. We therefore may conclude that the General Assembly has reached an overarching policy decision that work performed in and about a "private home", a "private household" or a "private dwelling" is to be viewed in a different fashion than the ordinary employer-employee relationship.

The Supreme Court relied on this stated policy in its decision in Smith v. Yurkovsky, 265 Conn. 816 (2003). In Smith, a home health aide argued that the statutory exemption should not bar her claim for Chapter 568 benefits based on her position that she exceeded the number of weekly working hours to trigger coverage. The Smith decision pointed to the legislative history where it was clear the General Assembly intended to exempt part time household employees from Chapter 568.

> During the introduction of the legislative bill underlying No. 491 of the 1961 Public Acts, the proponents of the bill addressed the exclusion in the act for part-time household employees. Representative John A. Rand stated: ''[This bill] excludes any person working around a domestic household, inside or out, who works for that employer less than [twenty-six] hours per week. In other words, after this [bill] becomes effective, you can have a baby sitter, or a person helping in the house, or a yardman or a

> lawn mower for up to a little more than three days a week, without being subject to the act.'' 9 H.R. Proc., Pt. 7, 1961 Spec. Sess., p. 3461. Senator Anthony P. Miller stated that ''[t]he definition of employees is amended to eliminate [from] the provisions of the act, any person who performs any type of service in or around a private home provided he is not so employed for more than [twenty-six] hours per week.'' 9 S. Proc., Pt. 9, 1961 Sess., p. 2972.

Id., 828.[7]

Notwithstanding the commonly understood meaning of the term "service in or about a private dwelling", the appellant argues that the decision in this case is at odds with the Supreme Court's decision in Vanzant v. Hall, 219 Conn. 674 (1991). We are not persuaded as a review of that case indicates the claimant was working within a reasonable definition of a "private dwelling" and the claimant herein was injured while engaged in a commercial business venture for the respondents.

In Vanzant, the claimant was injured while constructing a barn for a homeowner on the homeowner's property.[8] The claimant worked a limited number of hours a week on

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[7] Testimony before the Labor Committee in 1961 in favor of the bill enacting this statute also focused on exempting domestic service performed for residents from the scope of Chapter 568. See the statement of Representative J. Tyler Patterson before the Labor Committee.
"which deals with the problem, somewhat up in the air today, let us say, concerning the baby sitter, or the part time domestic employee. And I think the solution to that problem . . . is a reasonable and proper one . . The baby sitter would, so far as it's possible to do in Legislation, be excluded from the provisions of the Act, the part time domestic employee, that is the inside employee we might call her, who is employed for less than 26 hours in any one week, is excluded from the Act, and the yard man, or part time gardener is excluded in effect, if he works for you for only one day per week."

March 20, 1961 Joint Standing Committee Hearing, p. 369.
A representative of the business community, Paul Andrews of the Naugatuck Valley Industrial Council reiterated those concerns.
"many of our company officials, . . . were considerably concerned and worried over this question of the definition of part-time, or baby sitter question. . . . In general, we would take no position on coverage, other than to respectfully request that this be clarified, so that people don't come to me and say, 'I have a baby sitter three days a week. Do I have to buy Workmen's Compensation Insurance?'" Id., p. 409.

The legislative history behind Public Act 491 in 1961 evinces no support for the appellant's claim it was intended to cover employers engaged in the renovation of rental residential property.

the project prior to his injury. The homeowner argued that pursuant to our statute the claimant was providing "service in or about a private dwelling", id., 681, and the injury was outside this Commission's jurisdiction. The Supreme Court rejected an interpretation that this statute could be limited **solely** to domestic occupations such as housekeeping, babysitting and gardening. Id., 682 -684. To the contrary, the Supreme Court found "a normal reading of this provision would include the construction of a barn on **the premises of a private residence.**" Id., 684 (Emphasis added.) Therefore, the Supreme Court found the claimant was not entitled to benefits under Chapter 568. Id.

The Supreme Court's use of the term "premises" in Vanzant guides our analysis herein. The common law definition of this term applicable herein is "[a] house or building, along with its grounds." See Black's Law Dictionary, 8th Edition. The term "premises" is closely related to other legal terms governing real property such as "abode" and "curtilage", wherein a homeowner or tenant may exercise rights outside the specific physical structure where one dwells. See State v. Ryder, 301 Conn. 810 (2011).

> The curtilage area immediately surrounding a private house has long been given protection as a place where the occupants have a reasonable and legitimate expectation of privacy that society is prepared to accept.'' *Dow Chemical Co.* v. *United States*, 476 U.S. 227, 235, 106 S. Ct. 1819, 90 L. Ed. 2d 226 (1986). ''[T]he [f]ourth [a]mendment protects the curtilage of a house and . . . the extent of the curtilage is determined by factors that bear upon whether an individual reasonably may expect that the area in question should be treated as the home itself. . . . [T]he central component of this inquiry is whether the area harbors the intimate activity associated with the sanctity of a man's home and the privacies of life. (Citation omitted; internal quotation marks omitted.) *United States* v. *Dunn*, 480 U.S. 294, 300, 107 S. Ct. 1134, 94 L. Ed. 2d 326 (1987).

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[8] The trial commissioner found in Vanzant, "[t]he barn was located on the residential premises of Mark Hall." See Vanzant v. Mark Hall, d/b/a New England Remodeling Co., 8 Conn. Workers' Comp. Rev. Op. 122, 123 (July 6, 1990), 820 CRD-1-89-1, *rev'd*, 219 Conn. 674 (1991). There was also no factual finding in Vanzant that the homeowner intended to rent out the barn.

Id., 822.

In the context of claims involving commuting injuries, this Commission has frequently had to adjudicate the concept of "abode." Similar to the terms "curtilage" and "premises" we have concluded this term is more expansive than the physical structure where a claimant may reside. Our most recent determination on this issue was in Perun v. Danbury, 5651 CRB-7-11-5 (May 15, 2012), *aff'd*, 143 Conn. App. 313 (2013). In Perun, the claimant, a police officer, was injured in his driveway and he claimed the "portal to portal" provisions governing commuting injuries for police officers (§ 31-275(1)(E) C.G.S) made his injury compensable. We denied the claim as we found that he had not left his "abode" and cited the Appellate Court's opinion in Fine Homebuilders, Inc. v. Perrone, 98 Conn. App. 852 (2006) for this position. In Fine Homebuilders, Inc., the issue was whether a state marshal complied with § 52-57(a) C.G.S. when she affixed a foreclosure writ to a locked gate several hundred feet from the defendant's dwelling in Darien. The defendant argued that service had not been made at her "abode." The majority opinion relied on § 31-275(1)(E) C.G.S. to conclude that abode service had been provided.

> Elsewhere, in the workers' compensation context, the General Assembly has employed the term abode to connote more than one's dwelling itself…. Unlike § 52-57, the statute at hand, the legislature in § 31-275 also provided a definition of the term "abode." The statute provides in relevant part: "For purposes of subparagraph (E) of this subdivision, 'place of abode' includes the inside of the residential structure, the garage, the common hallways, stairways, driveways, walkways and the yard . . . ." General Statutes § 31-275(1)(F). We believe the broad application of the term "abode" as used in the workers' compensation statute is equally applicable to the statute at hand regarding service of process.

Id., 859-860.[9]

The Appellate Court affirmed our opinion in Perun. See 143 Conn. App. 313 (2013). They concluded that the claimant "had not crossed the demarcation line as defined by the legislature when he sustained his injury." Id., 317. Since the claimant had not left his abode when he was injured, we lacked jurisdiction to award benefits under Chapter 568. As noted, the definition of "abode" applicable in Perun was quite similar to the definition of "about a private dwelling" the Supreme Court applied in Vanzant.

The present case, however, is not a situation at all factually similar to Vanzant where the claimant was injured while working on an accessory building appurtenant to the employer's residence. The trial commissioner found in Findings, ¶¶ 8a and 8b that neither of the Pannone brothers ever lived at the premises where the claimant was injured. In Findings, ¶ 8c, she clearly rejected the contention that Gregory Pannone had ever truly intended to move into the premises at any time, citing his involvement with Louis Pannone in seeking to rent the house to a Section 8 tenant. In Conclusion, ¶ D, the trial commissioner concluded that the property at 50 Middlebury Street was purchased solely for the purpose of being used as an investment property. These are factual findings which are supported by evidence on the record cited in the Finding and Award. As an appellate body, we may not retry the facts of the case on appeal. Fair v. People's Savings Bank, 207 Conn. 535, 539 (1988).[10]

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[9] Presumably, had a State Marshal attempted to make service on Gregory Pannone at the 50 Middlebury Street, Stamford, CT address, he would contest jurisdiction arguing his abode was 15 Pond View Lane, Stamford, CT (Finding, ¶ 8b) and that such service was ineffective.

[10] The Appellant argues at length in his brief that the trial commissioner improperly created an "occupancy standard" in order to apply § 31-275(9)(B)(iv) C.G.S. and this allegedly erroneous standard would result in unjust and anomalous outcomes for property owners. Appellant's Brief, pp. 5-7. We find this argument unmeritorious. First, on the facts, we disagree that the trial commissioner applied the alleged "occupancy standard." Instead, she reached the reasonable conclusion from evidence on the record that 50 Middlebury Street, Stamford, CT was the respondent's investment property and not a "private dwelling." Second, we

The factual findings herein, however, are very closely aligned with two cases where tribunals concluded the statutory provisions of § 31-275(9)(B)(iv) C.G.S did not shield the respondents from liability. In Todd v. Malafronte, 3 Conn. App. 16 (1984), the plaintiff owned a dog kennel on her property as a business, and the kennel in question, while on the same parcel of property as the plaintiff's residence, was at least two hundred feet from her home. Id., 21. The defendant insurance agent had advised the plaintiff she did not need to carry workers' compensation insurance, yet she ended up having a workers' compensation claim filed against her which she decided to settle. The Appellate Court upheld a verdict the defendants were negligent in not directing the plaintiff to obtain workers' compensation insurance as her employee "had not been engaged to work 'in or about a private dwelling"' and therefore the injury was within the scope of Chapter 568. Id. Our tribunal reached a similar result in Davis v. Edward J. Corrigan, 4024 CRB-2-99-3 (July 20, 2000). In Davis, the claimant was hired to do repair work on a house in Jewett City, was injured falling at the work site, and we found that "[t]he employer is an experienced businessman and real estate developer, who would purchase dilapidated buildings and refurbish them." Id. We declined to extend the statutory

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find it truly ironic that the appellant fails to appreciate the "unreasonable or bizarre results", Southern New England Telephone Co. v. Cashman, 283 Conn. 644, 652-653 (2007), which would flow inevitably from his statutory interpretation. Presumably a corporation that builds a thousand homes a year engages work based on appellant's reading of the statute "in or about a private dwelling." The appellant's statutory construction would exempt all of their employees who work less than 26 hours per week from workers' compensation coverage. The 34 story Trump Parc residential tower in Stamford might also be deemed a "private dwelling"; with similar results. This scheme would cause a narrow statutory exemption to swallow a large swatch of the entire statute, in derogation of legislative intent. Gartrell v. Dept. of Correction, 259 Conn. 29, 41-42 (2002).

To the contrary, the standard for principal employer liability delineated in § 31-291 C.G.S. that work must be "a part or process in the trade or business" of the respondent would seem applicable to the facts herein. See Martinez v. C. Palmer & Sons, 5252 CRB-8-07-7 (October 21, 2008). The trial commissioner could reasonably find herein that the rental real estate business was a business that the Pannone brothers had engaged in systemically during an extended period of time, and they could reasonably anticipate liability for workplace accidents due to this business.

exemption as to work about a private dwelling to that claim as "the claimant was hired by a sophisticated businessperson who was in the business of refurbishing houses." Id. The facts as found by the trial commissioner herein, see especially Findings, ¶¶ 32c and 32e, ¶¶ 33-34, ¶¶ 45-46, ¶ 47e and Conclusion, ¶ E, clearly establish that the Pannone brothers were sophisticated businessmen experienced in the real estate business. The facts herein further demonstrate the claimant was injured while renovating investment property, and not a private residence. We cannot find any distinction regarding either the facts or the law between the present case and Davis, and are compelled to reach the same result.

We do not find that statutory exemption in Chapter 568 for part-time household employees (§ 31-275 (9)(B)(iv) C.G.S.) applies to employees in the rental real estate industry. Consequently, the appellant's argument that we should remand this matter pursuant to Muniz v. Allied Community Resources Inc., 5025 CRB-5-05-11 (November 1, 2006), *aff'd*, 108 Conn. App. 581 (2008), *cert. denied*, 289 Conn. 927 (2008) to ascertain if the claimant regularly worked more than 26 hours per week on the premises is irrelevant. Unlike a home health aide, the number of hours a week a laborer works on a private business venture does not govern coverage under our Act.

Therefore, we affirm the Finding and Award.[11]

Commissioners Stephen B. Delaney and Christine L. Engel concur in this opinion.

[11] The appellant also argues that it was error to deny his Motion to Correct and his Motion for Articulation. The trial commissioner was legally empowered to deny these motions. See Brockenberry v. Thomas Deegan d/b/a Tom's Scrap Metal, Inc., 5429 CRB-5-09-2 (January 22, 2010), *aff'd*, 126 Conn. App. 902 (2011)(Per Curiam); D'Amico v. State/Department of Correction, 4287 CRB-5-00-9 (August 3, 2001), *aff'd*, 73 Conn. App. 718, 728 (2002), *cert. denied*, 262 Conn. 933 (2003); and Liano v. Bridgeport, 4934 CRB-4-05-4 (April 13, 2006). The appellant did not persuade the trial commissioner that this evidence was probative or relevant, and the commissioner is not bound to accept the view of the case presented by a litigant. We also do not find that the Finding and Award was sufficiently ambiguous as to mandate an articulation. Biehn v. Bridgeport, 5232 CRB-4-07-6 (September 11, 2008).