

DECISION OF THE WORKERS' COMPENSATION APPEAL TRIBUNAL

WCAT DECISION DATE: **March 26, 2025**

WCAT DECISION NUMBER: **A2401673**

WCAT PANEL: **Elaine Murray**

RE: Douglas Alfred Beckman v. Karen May Vinci, Domenico Vinci, Dylan Domenico Vinci, and James Kevin Schafer; and 330542 BC Ltd. (Defendant by Counterclaim)
Vancouver Registry Number: VLC-S-223400
Certification to Court
WCAT No. A2401673

Applicant: 330542 BC Ltd.
("Defendant by Counterclaim")

Respondent: Karen May Vinci
("Claimant by Counterclaim")

Representatives:

For Applicant: Maggie Campbell
Roper Greyell LLP

For Respondent: David McWhinnie
Tevlin Gleadle Employment Law Strategies

DECISION OF THE WORKERS' COMPENSATION APPEAL TRIBUNAL

Introduction

- [1] This application for a certification to court has been brought by 330542 BC Ltd., the defendant by counterclaim (the company), in relation to the counterclaim filed by Karen May Vinci, the claimant by counterclaim (Ms. Vinci).
- [2] The plaintiff, Douglas Alfred Beckman (Mr. Beckman), commenced a court action in April 2022 against Ms. Vinci and her various family members (Domenico Vinci, Dylan Domenico Vinci, and James Kevin Schafer). Mr. Beckman claims, among other matters, that Ms. Vinci was hired by the company in the role of his personal assistant and that she and her family members defaulted in over 4.7 million dollars of loan payments that he made to them and/or defrauded him of those funds. Ms. Vinci and her family members claim that the funds were gifts.
- [3] On May 26, 2022, Ms. Vinci filed a counterclaim against Mr. Beckman and named the company as a defendant by counterclaim, alleging that she was wrongfully dismissed by the company on April 18, 2022, for which she seeks damages for breach of contract, and aggravated and punitive damages. In addition, she claims that she sustained emotional injury as a result of Mr. Beckman committing assault and battery against her by subjecting her to persistent, harmful, and unwanted physical contact of a sexual nature or the threat thereof. Mr. Beckman denies these allegations.
- [4] Section 311 of the *Workers Compensation Act* (Act) provides that if a court action is commenced based on a personal injury, death, or a disability caused by occupational disease, a party or the court may ask the Workers' Compensation Appeal Tribunal (WCAT) to make determinations and to certify those determinations to the court.
- [5] This application was initiated by counsel for the company in July 2024. Mr. Beckman, as plaintiff in his court action, has legal counsel who did not file a notice to participate in this application. Counsel for the company has been acting as counsel for Mr. Beckman in relation to the counterclaim by filing a response to the counterclaim on behalf of both

the company and Mr. Beckman¹, and by providing submissions on this application. I will refer to counsel for the company as “the applicant” for the remainder of this decision, and to counsel for Ms. Vinci as “the respondent.”

- [6] I note that, while 330542 BC Ltd. is the defendant by counterclaim, Mr. Beckman is not named in the court action as a defendant by counterclaim. Section 311(2) of the Act provides that WCAT “may determine any matter that is relevant to the action and within the Board's jurisdiction under this Act.” Thus, while Mr. Beckman is not a named defendant in the counterclaim, I can make a determination of his status. I will refer to him as the respondent by counterclaim.
- [7] The respondent also filed a notice of participation for Domenico Vinci and Dylan Domenico Vinci; however, the respondent acknowledged that their participation was not required. It is only Ms. Vinci who is a claimant by counterclaim. James Kevin Schafer was also invited to participate and declined to do so.
- [8] The applicant seeks determinations of the status of Ms. Vinci, Mr. Beckman, and the company in respect of Ms. Vinci's counterclaim for injuries sustained as a result of Mr. Beckman allegedly committing assault and battery against her.
- [9] The applicant requested that this application be heard by written submissions. The respondent also did not request an oral hearing. Certification to court applications generally proceed in writing, unless there are relevant credibility issues or factual disputes that are better resolved through an oral hearing. There are factual disputes; however, it is not necessary to resolve those disputes to properly address the determinations requested on this application. I am satisfied that an oral hearing is not required. The applicant and respondent have provided written submissions.
- [10] I have also been provided with examination for discovery (EFD) transcripts for Mr. Beckman and Ms. Vinci, along with affidavit evidence from Mr. Beckman and from Evelyn Towgood (Ms. Towgood), the chief financial officer for the company.

Issue(s)

- [11] Ms. Vinci claims that the causes of action in relation to Mr. Beckman's conduct (assault and battery) began in or about December 2017 and ended upon her termination on April 18, 2022.

¹ Counsel filed the response to the counterclaim on behalf of the “Responding Parties.”

[12] The applicant has requested the following determinations be addressed with respect to the time those causes of action arose:

- Was Mr. Beckman a worker within the meaning of the compensation provisions of the Act?
- Did any action or conduct of Mr. Beckman, which caused any breach of duty of care, arise out of and in the course of his employment within the scope of the compensation provisions of the Act?
- Was Ms. Vinci a worker within the meaning of the compensation provisions of the Act?
- Did any injury suffered by Ms. Vinci arise out of and in the course of her employment within the scope of the compensation provisions of the Act?
- Was the company an employer engaged in an industry within the meaning of the compensation provisions of the Act?
- Did any action or conduct of the employer (company), which caused any breach a duty of care to the plaintiff, arise out of and in the course of employment within the scope of the compensation provisions of the Act?

Jurisdiction and Standard of Proof

[13] On April 6, 2020, the Act was reorganized and renumbered under the *Statute Revision Act*, RSBC 1996, c. 440. As the revised provisions have the same effect as the provisions which existed at the time some of the causes of action arose, the revised provisions apply. Under the *Workers Compensation Act*, RSBC 2019, c. 1, section 10 has been replaced by section 127, and section 257 has been replaced by section 311.

[14] Part 7 of the current Act applies to proceedings under section 311, except that no time frame applies to the making of the WCAT decision (section 311(3)). WCAT is not bound by legal precedent (section 303(1)). WCAT must make its decision based on the merits and justice of the case but, in so doing, must apply a published policy of the board of directors of the Workers' Compensation Board, operating as WorkSafeBC (Board), that is applicable (section 303(2)). Section 308 provides that WCAT has exclusive jurisdiction to inquire into, hear, and determine all those matters and questions of fact, law, and discretion arising or required to be determined under Part 7 of the Act, including all matters that WCAT is requested to determine under section 311.

- [15] The WCAT decision is final and conclusive and is not open to question or review in any court (section 309(1)). The court determines the effect of the certificate on the legal action: *Clapp v. Macro Industries Inc.*, 2007 BCSC 840.
- [16] The policies that apply to this decision are set out in the Board's *Rehabilitation Services and Claims Manual, Volume II* (RSCM II). All references to policy in this decision are to the RSCM II, which was amended as of April 6, 2020 to use the section numbers and language of the revised Act. The policies that apply in this decision are those that were in effect at the time the alleged causes of action arose, as amended on April 6, 2020 to reflect the revised Act.
- [17] WCAT is subject to a statutory direction in section 303(5) of the Act:²
- If the appeal tribunal is hearing an appeal respecting the compensation of a worker and the evidence supporting different findings on an issue is evenly weighted in that case, the appeal tribunal must resolve that issue in a manner that favours the worker.
- [18] Section 303(5) of the Act must be read together with section 311(3), which provides that Part 7 of the Act, concerning appeals to WCAT, applies to certification to court proceedings under section 311 as if the proceedings were an appeal (apart from section 306(4) concerning the time for making a final decision). I and other WCAT panels have consistently read section 303(5) as meaning that, where the evidence supporting different findings on an issue is evenly weighted, the decision must be made in favour of providing workers' compensation coverage (rather than according to the wishes or preference of the worker). I agree with the reasoning on this point provided in *Workers' Compensation Reporter Decision #330*, "Re Scope of Employment," 5 W.C.R. 88, which was followed in *WCAT-2012-00028* at paragraphs 33 to 34.

Status of Mr. Beckman

Was Mr. Beckman a worker within the meaning of the compensation provisions of the Act at the time the causes of action arose from December 2017 to April 18, 2022?

- [19] By memorandum dated September 10, 2024, a research and evaluation analyst, Audit and Assessment Department of the Board, advised that 330542 BC Ltd. – Account No. 376744, was registered with the account legal name of 330542 BC LTD

² All quotes are reproduced as written, unless otherwise indicated.

and the trade name of Regency Chrysler from August 4, 1987 to the date of the memorandum.

- [20] A January 29, 2025 BC company search done by WCAT indicates that Mr. Beckman is the sole director of the company. In addition, the officer information as of July 21, 2024 is that Mr. Beckman is the president and secretary of the company.
- [21] In his court action, Mr. Beckman claimed that he is the president and, through other company holdings, ultimately the sole shareholder of the company.
- [22] The parties agree that Mr. Beckman was the owner and principal of the company.
- [23] Section 1 of the Act defines "worker" as including "a person who has entered into or works under a contract of service or apprenticeship, whether the contract is written or oral, express or implied, and whether by way of manual labour or otherwise... ."
- [24] The company was registered with the Board at all material times. Board policy at item AP1-1-4 of the *Assessment Manual* provides:

(c) Principals of corporations or similar entities

As the incorporated entity is considered the employer, a director, shareholder or other principal of the company who is active in the business operations of the company is generally considered to be a worker under the Act....

- [25] Mr. Beckman, as a principal of the incorporated entity and active in the business operations, would generally be considered to be a worker of the company. Use of the term "generally" in policy item AP1-1-4 means that there will be exceptions. The most obvious exception is a situation addressed in policy item AP1-1-4, with respect to the status of a principal of a company which failed to register with the Board. That is not the situation here. I see no compelling reason why the general rule in this policy would not apply, such that, at all material times, Mr. Beckman was a worker within the meaning of the compensation provisions of the Act.

Did any action or conduct of Mr. Beckman, which caused any breach of duty of care, arise out of and in the course of his employment within the scope of the compensation provisions of the Act?

- [26] To properly address the status of Mr. Beckman, it is first necessary to understand the nature of the alleged incidents of assault and battery and when and where they occurred.
- [27] Ms. Vinci's counterclaim documents the following:
- Commencing in December 2017 and continuing on an ongoing basis thereafter, the defendant Karen May Vinci was subjected to repeated, unwanted physical contact of a sexual nature, or the threat thereof, initiated by the plaintiff. This conduct of the plaintiff was intentional and persistent, and without detracting from the generality of the foregoing, included:
- a. kissing or attempting to kiss the defendant Karen May Vinci;
 - b. unwanted groping of the defendant Karen May Vinci or other unwanted physical contact;
 - c. exposing himself while naked to the defendant Karen May Vinci; and
 - d. such further or other conduct as the defendant may advise.
- [28] To provide some context, Ms. Vinci, as Mr. Beckman's personal assistant, would travel with Mr. Beckman to various locations, including to Maui, Hawaii. Ms. Vinci testified at her EFD on August 30, 2024 that whenever she was in Maui or Vancouver with Mr. Beckman, she was working (Q. 466-467); whenever she was spending time with Mr. Beckman in Kelowna, she was working (Q. 469-470); whenever she went out for meals with Mr. Beckman, she was working (Q. 472); it was part of her job to be there for Mr. Beckman, including spending holidays with him (Q. 480-482); and all of the time she spent with Mr. Beckman from 2017 onwards was as his employee (Q. 488).
- [29] As the above is to provide some context for what follows, I acknowledge the respondent's submission that, while it was Ms. Vinci's belief that she was working for Mr. Beckman at all times, a person's belief is not the deciding factor.

[30] In her August 30, 2024 EFD, Ms. Vinci also testified as follows:

- Mr. Beckman first sexually assaulted her in January of 2018 in Maui (Q. 453-454) when he came into her bed naked (Q. 507) and tried to kiss her (Q. 540).
- Mr. Beckman would kiss her when she arrived for work, sometimes during the day, and before she left (Q. 497-498).
- Mr. Beckman would put his hand on her thigh while at lunches or dinners (Q. 504-505) and touch her bum (Q. 518).
- Mr. Beckman came into her room while at his home in Wailea, Maui (Q. 548) and at a villa at the Fairmont Hotel in Maui (Q. 567) a couple of times.
- Mr. Beckman exposed himself to her on two occasions while in Maui (Q. 576-579).

[31] During a further EFD of Ms. Vinci on January 9, 2025, she testified as follows:

- She was sexually harassed by Mr. Beckman via text message with him constantly telling her that he loved her (Q. 794).³
- There was daily abuse by Mr. Beckman either sticking his tongue in her mouth in the morning and/or at night; by looking at her bottom and sometimes slapping it; by sitting very close to her in restaurants; and by exposing himself to her on occasion (Q. 902).
- About ten times between January 2018 and her termination, Mr. Beckman came into her room in Maui, and he would lay on top of her naked and put his "penis into my privates" (Q. 904-911).
- Mr. Beckman exposed himself in Kelowna in the theatre room and climbed on top of her and tried to kiss her (Q. 927-928).

[32] The applicant refers me to *WCAT Decision A1800290*, 2021 CanLII 17506 (BC WCAT),⁴ for the proposition that WCAT can decide requests for certification to court while assuming, without deciding, that a plaintiff's allegations are true:

[24] Although not stated as such, I understand the crux of the defendants' position with respect to the need for an oral hearing is

³ The parties did not provide WCAT with any text messages.

⁴ Prior WCAT decisions are not binding, except in one circumstance not applicable here, but can provide adjudicative guidance.

that the truth of the plaintiff's allegations (which the defendants repeatedly deny) is a matter for the Court to decide should the matter go to trial, and the application before WCAT is limited to whether the defendants' alleged actions or conduct and the plaintiff's alleged injuries arose out of and in the course of employment. In effect, the defendants ask that I consider the CTC [Certification to Court] application while assuming, without deciding, that the plaintiff's allegations are true.

[25] I have now had the opportunity to consider the parties' submissions and the documentary evidence including the claim file and the affidavits that have been filed. Having considered the matter, I conclude that an oral hearing is not necessary and that the section 311 application can be properly decided on the basis proposed by the defendants. The issues raised by the CTC application are being decided based on the plaintiff's civil action pleadings, the claim file evidence, the affidavit evidence, and the parties' written submissions.

[33] With respect to the allegations of Mr. Beckman's conduct and whether Ms. Vinci sustained any injury as a result, I agree that it is appropriate for me to consider the CTC application while assuming, without deciding, that the plaintiff's above-noted allegations are true. As earlier noted, Mr. Beckman denies all allegations of misconduct.

[34] Before addressing Mr. Beckman's evidence, I note that Mr. Beckman suffers from Huntington's disease, diagnosed in 2005. In a December 3, 2024 Amended Response to Counterclaim, the applicant states that Huntington's disease is a degenerative brain condition associated with, *inter alia*, cognitive, emotional, and psychiatric symptoms. It was my impression from reviewing the transcript of Mr. Beckman's EFD that he was testifying to the best of his abilities; however, he had poor recollection of events and often appeared confused.

[35] The applicant submits that Mr. Beckman's actions and conduct arose out of and in the course of his employment, taking into consideration the unique nature of both Mr. Beckman's and Ms. Vinci's employment. In particular, the applicant submits that the nature of Mr. Beckman's work is that he is always working. He must always be available to oversee and run his businesses, including the company for which

Ms. Vinci worked.⁵ Mr. Beckman testified at his EFD on August 28 and 29, 2024 that he is even working when he is in Maui, where he first took Ms. Vinci when he hired her. It was part of her job as his personal assistant to travel with him to Maui (Q.194) and he would pay for her travel, accommodations, and food while in Maui (Q. 218). The applicant submits that trips to Maui were clearly work trips for Ms. Vinci and Mr. Beckman.

- [36] The respondent submits that sexually assaulting Ms. Vinci was clearly not part of Mr. Beckman's employment within the scope of the compensation provisions of the Act. The respondent references policy items C3-14.00, C3-17.00, and C3-18.00 found in Chapter 3 of the RSCM II.
- [37] Policy item C3-14.00, "*Arising Out of and In the Course of the Employment*," is the principal policy concerning adjudication of the "arising out of and in the course of" issue. It explains that "in the course of the employment" generally refers to whether the injury or death happened at a time and place and during an activity consistent with, and reasonably incidental to, the obligations and expectations of the employment. "Arising out of the employment" generally refers to the cause of the injury. The policy recognizes that "employment" is a broader concept than "work."
- [38] Policy item C3-14.00 sets out a list of nine non-medical factors to be considered in making a decision as to whether an injury arose out of and in the course of a worker's employment. The policy explains that all of these factors may be considered in making a decision but that no one of them may be used as an exclusive test. This list is not exhaustive, and other relevant factors may also be considered.
- [39] The nine factors are as follows: (1) On Employer's Premises; (2) For Employer's Benefit; (3) Instructions From the Employer; (4) Equipment Supplied by the Employer; (5) Receipt of Payment or Other Consideration from the Employer; (6) During a Time Period for which the Worker was Being Paid or Receiving Other Consideration; (7) Activity of the Employer, a Fellow Employee or the Worker; (8) Part of Job; and (9) Supervision.
- [40] The applicant submits that factors 4 and 5 are neutral factors, but the remaining seven of the nine factors support a finding that the alleged assault and battery arose out of and in the course of employment for both Ms. Vinci and Mr. Beckman. It occurred on the

⁵ It was Mr. Beckman's evidence on EFD (Q. 730-731) that Ms. Vinci only worked for Regency Chrysler (the company), which is an auto dealership.

employer's premises, which were anywhere Ms. Vinci was with Mr. Beckman, and during working hours, which were any time she was with Mr. Beckman. Further, it occurred in the context of interactions with and instructions from Mr. Beckman, who was her supervisor. On balance, the applicant contends that there is a strong employment connection in this case.

[41] The applicant also refers to policy item C3-19.00, "*Work-Related Travel*." Policy item C3-19.00 provides that, when assessing work-related travel cases, the general factors listed under policy item C3-14.00 are considered as policy item C3-14.00 is the principal policy that provides guidance in deciding whether or not an injury or death arises out of and in the course of a worker's employment.

[42] Policy item C3-19.00 then provides the following general guidance:

The general policy related to travel is that injuries or death occurring in the course of travel from the worker's home to the normal place of employment are not compensable. **On the other hand, where a worker is employed to travel, injuries or death occurring in the course of travel may be covered.** This is so whether the travel is a normal part of the job or is exceptional. **In these cases, the worker is generally considered to be traveling in the course of the worker's employment from the time the worker commences travel on the public roadway.**

[emphasis added]

[43] Section D of policy item C3-19.00 specifically addresses "Business Trips." It too begins with the provision that the general factors listed under policy item C3-14.00 are used to determine whether a trip undertaken by a worker is sufficiently connected to the worker's employment as to be a business trip. For example, if the trip is taken for the employer's benefit, on the instructions of the employer, or paid for by the employer, these are all factors that weigh in favour of finding that the trip is a business trip. This policy further explains that an employment connection generally exists continuously during a business trip, except where the worker makes a distinct departure of a personal nature. With respect to a "distinct departure," the policy states:

Personal activities associated with and incidental to business trips, such as traveling, eating in restaurants, staying in overnight accommodations (including sleeping, washing etc.) are normally regarded as within the scope of a worker's employment where a worker is on a business trip.

On the other hand, when a worker makes a distinct departure of a personal nature while on a business trip, this may be regarded as outside the scope of the worker's employment. There is an obvious intersection and overlap between employment and personal affairs while a worker is on a business trip. However, a "distinct departure" is more than a brief and incidental diversion. ...

- [44] Based on policy item C3-19.00, the applicant submits that, although some of the incidents of assault and battery occurred in Maui, and in hotel rooms and restaurants, this was in relation to the parties being on business trips and, therefore, there was an employment connection.
- [45] Yet, even if I were to find that policy items C3-14.00 and C3-19.00 could support a conclusion that Mr. Beckman was in the course of his employment during the times of his alleged misconduct, I consider policy item C3-17.00, "*Deviations from Employment*," to be critical to the analysis. Policy item addresses those situations where, by the worker's conduct, a worker can be removed from being in the course of their employment, assuming they were in the course of their employment in the first place.
- [46] If I assume that Mr. Beckman was in the course of his employment at all times from December 2017 to April 18, 2022,⁶ I find that he removed himself from the course of his employment by his alleged misconduct. My reasons follow.
- [47] By way of introduction, policy item C3-17.00 explains that policy item C3-14.00 is the principal policy that provides guidance in deciding whether or not an injury or death arises out of and in the course of the employment. In some circumstances, evidence supporting one component of the employment-connection test may be clear, while evidence supporting the other component is questionable owing to something the worker did. In considering whether an injury or death arose out of and in the course of a worker's employment, all relevant factors are taken into consideration including the causative significance of the worker's conduct in the occurrence of the injury or death and whether the worker's conduct was such a substantial deviation from the reasonable expectations of employment as to take the worker out of the course of the employment. An insubstantial deviation does not prevent an injury or death from being held to have arisen out of and in the course of a worker's employment.

⁶ For the reasons that follow, it has not been necessary for me to make a finding in that regard.

- [48] The applicant acknowledges that, generally, WCAT has found that sexual assaults take the assailant out of the course of employment⁷; however, the applicant contends that the alleged conduct and actions of Mr. Beckman are distinguishable from other WCAT decisions due to the unique nature of both Mr. Beckman's and Ms. Vinci's employment. The applicant again refers to the nature of Mr. Beckman's business in that he does not have set hours or a set place of business. As the owner and operator of a number of businesses, he has to be available to oversee them and does so from wherever he might be. The applicant submits that this is in keeping with Ms. Vinci's evidence that, whenever she was with Mr. Beckman she was working and, therefore, Mr. Beckman was likewise working.
- [49] Policy item C3-17.00 describes a range of activities that may serve to take a worker outside of the course of his or her employment. In relation to assaults and the interaction with policy item C3-14.00, sub-item (F)(ii) provides:

F. Activity of the Employer, a Fellow Employee or the Worker

...

ii Assault

If a worker's injury or death is the result of an assault that arises out of and in the course of the worker's employment, the worker may be entitled to compensation. However, if the worker's injury or death is the result of an assault that the worker initiated, this may constitute a substantial deviation from the course of the worker's employment.

The Board considers the spontaneity of the assault, whether the worker's aggressive response is in proportion to a triggering incident or provocation, whether there is a connection between the employment and the subject matter of the dispute that led to the assault. Where the actions or response of a worker are extreme or are out of proportion to a triggering incident or provocation, this may be an indication that the assault is of a more personal nature. If the subject matter of the dispute that led to the assault is a personal matter, the injury or death is not considered to have arisen out of and in the course of a worker's employment.

Just as a worker's initiation of an assault may take the worker out of the course of the employment, an assailant's attack on a worker may bring the

⁷ See, for example, *WCAT Decision A1601518* (which I will address shortly) and *WCAT Decision A2201189*.

worker into the course of the employment, even though the assault does not occur at the workplace or during working hours. An assailant may be an employer, fellow worker or a non-worker (for example, a client or customer).

In these cases, the facts of the situation as to whether the assault is clearly related to the worker's employment are carefully considered to determine whether the employment was of causative significance. If the employment aspects of the assault are more than just an incidental intrusion into the personal life of the worker at the moment of the injury or death, the worker may be entitled to compensation.

The term "assault", as used in this policy, includes sexual assault.

[50] The applicant submits that it ought not to be found that Mr. Beckman deviated from his employment due to the unique nature of the employment relationship. I also note that the applicants have categorized the nature of Mr. Beckman's conduct as falling into two categories: alleged sexual harassment and alleged sexual assault. As a result, the applicant's submissions also suggest that policy item C3-17.00 may not apply to the alleged sexual harassment.

[51] I disagree and find guidance in this matter in *WCAT Decision A1601518 (Kirsten Rudolph et al. v. Robert Harold Bennett et al.)* (Bennett). The Bennett CTC application involved allegations of sexual assault against a fire chief, Bennett, by plaintiffs who were volunteer firefighters. At paragraph 138, the WCAT panel found that Bennett's conduct should be considered as a whole and not parsed out:

The fact that Bennett's actions were of a sexual nature supports a conclusion that his actions or conduct involved personal motivations which were unrelated to his employment. The incidents involving his grabbing or touching of a plaintiff by a breast or bottom, and the April 4, 2013 incident in which his penis was exposed when he held Reiersen on the floor, were overtly sexual in nature. There were additional incidents of verbal sexual harassment of a crude and obscene nature. **Given the clear and ongoing pattern of such conduct, I consider that it may appropriately be addressed as a whole, rather than requiring a separate evaluation of each instance on an individual basis.**

[emphasis added]

- [52] Likewise, with respect to Mr. Beckman's conduct, based on Ms. Vinci's allegations it was all of a sexual nature. According to Ms. Vinci, it involved almost daily unwanted kissing and touching, constant text messages telling her that he loved her, several incidents of indecent exposure, and approximately ten incidents of him coming into her room naked and penetrating her. Given the alleged ongoing pattern of such conduct, I consider that it may appropriately be addressed as a whole, rather than requiring an evaluation of each instance on an individual basis or on an evaluation based on a separation between sexual harassment and sexual assault.
- [53] Returning to policy item C3-17.00, it provides that consideration is given to the spontaneity of the assault, whether the worker's aggressive response is in proportion to a triggering incident or provocation, and whether there is a connection between the employment and the subject matter of the dispute that led to the assault. Yet, I note that, often in sexual assault cases as opposed to physical assault cases, there is no "subject matter" or a "dispute." That is the case here.
- [54] I again find guidance in the Bennett decision. In finding that Bennett's actions resulted in a substantial deviation from employment, the panel wrote at paragraphs 139 and 140:

I find that the evidence establishes, on a balance of probabilities, that Bennett was the aggressor in the sexual assaults. These actions involved his own personal motivations, and were contrary to his employer's interests. While Bennett's actions occurred on the employer's premises, and involved a misuse of his position as fire chief, they represented a substantial deviation from his employment in the same fashion that the actions of an aggressor in a physical assault, or of a person engaging in serious horseplay, may involve such a departure. I find that Bennett's verbal sexual harassment of the plaintiffs, and physical sexual assaults on the plaintiffs, were part of this pattern of misconduct which was not employment-connected.

I find that any action or conduct of the defendant Bennett, which caused the alleged breaches of duty of care, did not arise out of and in the course of his employment within the scope of Part 1 of the Act.

- [55] With respect to Mr. Beckman's alleged misconduct involving personal motivations, I note the respondent's submission that the evidence of Ms. Vinci is that Mr. Beckman believed he had fallen in love with her, wanted to marry her, and she was fired because she would not do so. At Q. 1079 in her January 9, 2025 EFD, Ms. Vinci testified in part

that, in April 2022, Mr. Beckman asked her about the nature of their relationship and he became very upset when she replied that they were just friends.

- [56] Accepting Ms. Vinci's allegations for purposes of this application, it appears that Mr. Beckman wished to pursue a personal relationship with Ms. Vinci⁸ and that he was the aggressor in this matter. His alleged sexual overtures appear likely to have been in pursuance of that relationship. This supports a conclusion that his actions or conduct involved personal motivations which were entirely unrelated to his employment. Yet, even if he did not wish to pursue a personal relationship, I find that Mr. Beckman's alleged misconduct represented a substantial deviation from his employment in the same fashion that the actions of an aggressor in a physical assault, or of a person engaging in serious horseplay, may involve such a departure. This is not a situation where Mr. Beckman's alleged misconduct represented a spontaneous reaction to a workplace situation. The repeated nature of his actions points to an intentional pattern of conduct rather than a spontaneous reaction to a particular workplace event.
- [57] As is set out in *WCAT Decision A1801856 (Sambuev v. Handley and Overland West Freight Lines Ltd.)*, the general rule in relation to assaults is that if the assault amounts to a "substantial deviation" then it will not likely fall within the scope of employment. Where a worker's conduct is extreme or out of proportion to some work-related provocation then such circumstances may constitute a substantial deviation.
- [58] I do not see how I could conclude that Mr. Beckman was provoked into the incidents of alleged assault and battery on Ms. Vinci. Ms. Vinci indicates that Mr. Beckman was the initiator. His alleged misconduct was disproportionate to the circumstances. His alleged actions involved his own personal motivations and had nothing to do with furthering his company's business.
- [59] I can see no duties that Mr. Beckman had as the principal of his company that would cause him to participate in alleged assault and battery against Ms. Vinci so as to bring his conduct within the course of his employment. To find otherwise would mean that provided one is the principal of a company and, therefore, always "on duty" wherever one might be, sexually assaulting an employee would never amount to a deviation from employment. This would be nonsensical.

⁸ Mr. Beckman denies this to be the case.

- [60] It follows that I find that any action or conduct of Mr. Beckman, which caused the alleged breach of duty of care, did not arise out of and in the course of his employment within the scope of the compensation provisions of the Act.

Other Determinations

- [61] In view of my conclusion regarding the status of Mr. Beckman in relation to the alleged breach of duty of care (assault and battery), it does not appear necessary to proceed to address the status of Ms. Vinci at the time those causes of action arose. With respect to a status determination of the company, I note it is not disputed that the company was an employer engaged in an industry within the meaning of the compensation provisions of the Act. That said, as a corporation, the company could only act through its principals, employees or agents. It is not suggested in the counterclaim that anyone connected to the company, other than Mr. Beckman, was responsible for the actions or conduct which caused the alleged breach of duty of care (assault and battery). Thus, it also does not appear necessary to provide a determination with respect to the company in this regard.
- [62] That said, Ms. Vinci alleges that she was employed by Mr. Beckman and the company as common employers, or alternatively, by each of them, as a personal assistant to Mr. Beckman. She claims that Mr. Beckman and the company, or each of them, breached the terms of her employment contract by wrongfully terminating her on April 18, 2022, and by terminating her in a manner contrary to their duty of good faith including by treating her in a callous, brutal, and vengeful manner that caused her distress. She claims that she suffered and continues to suffer loss and harm as a consequence. She seeks damages for breach of contract, and aggravated and punitive damages.
- [63] It appears that Ms. Vinci may be claiming that she sustained an employment-related injury with respect to the manner of her dismissal on April 18, 2022. The submissions of the applicant and respondent did not address the status of the parties on or about April 18, 2022 in relation to this other cause of action stemming from possible injury due to the manner of termination.
- [64] If the applicant or respondent want status determinations of Ms. Vinci, and/or Mr. Beckman, and/or the company with respect to the cause of action (injury due to the manner of termination) on April 18, 2022, they make ask WCAT to do so. Submissions would then be requested specific to determining status at the time this cause of action arose on April 18, 2022.

Conclusion

- [65] In conclusion, I find that at the time the causes of action arose in relation to the allegations of assault and battery under the counterclaim from December 2017 to April 18, 2022:
- (a) the Respondent by counterclaim, DOUGLAS ALFRED BECKMAN, was a worker within the meaning of the compensation provisions of the Act; and
 - (b) any action or conduct of the Respondent by counterclaim, DOUGLAS ALFRED BECKMAN, which breached a duty of care to the claimant by counterclaim, did not arise out of and in the course of his employment within the scope of the compensation provisions of the Act.

Elaine Murray
Vice Chair

NO. VLC-S-223400
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE WORKERS COMPENSATION ACT
REVISED STATUTES OF BRITISH COLUMBIA 2019, CHAPTER 1, AS AMENDED
BETWEEN:

DOUGLAS ALFRED BECKMAN

PLAINTIFF

AND:

KAREN MAY VINCI, DOMENICO VINCI, DYLAN DOMENICO VINCI, and
JAMES KEVIN SCHAFER

DEFENDANTS

C E R T I F I C A T E

UPON APPLICATION of the Defendant by counterclaim, 330542 BC LTD, in this action for a determination pursuant to section 311 of the *Workers Compensation Act*;

AND UPON NOTICE having been given to the parties to this action and other interested persons of the matters relevant to this action and within the jurisdiction of the Workers' Compensation Appeal Tribunal;

AND AFTER an opportunity having been provided to all parties and other interested persons to submit evidence and argument;

AND UPON READING the pleadings in this action, and the submissions and material filed by the parties;

AND HAVING CONSIDERED the evidence and submissions;

THE WORKERS' COMPENSATION APPEAL TRIBUNAL DETERMINES THAT at the time the causes of action arose under the counterclaim in relation to the allegations of assault and battery from December 2017 to April 18, 2022:

1. The Respondent by counterclaim, DOUGLAS ALFRED BECKMAN, was a worker within the meaning of the compensation provisions of the *Workers Compensation Act*.
2. Any action or conduct of the Respondent by counterclaim, DOUGLAS ALFRED BECKMAN, which caused the alleged breach of duty of care, did not arise out of and in the course of his employment within the scope of the compensation provisions of the *Workers Compensation Act*.

CERTIFIED this 26th day of March, 2025.

Elaine Murray
VICE CHAIR

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE MATTER OF THE WORKERS COMPENSATION ACT
REVISED STATUTES OF BRITISH COLUMBIA 2019, CHAPTER 1, AS AMENDED

BETWEEN:

DOUGLAS ALFRED BECKMAN

PLAINTIFF

AND:

KAREN MAY VINCI, DOMENICO VINCI, DYLAN DOMENICO VINCI, and JAMES KEVIN SCHAFER

DEFENDANTS

AND:

330542 BC LTD.

DEFENDANT BY COUNTERCLAIM

SECTION 311 CERTIFICATE

WORKERS' COMPENSATION APPEAL TRIBUNAL
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