

Anderson v. British Columbia (Workers' Compensation Appeal Tribunal)

Decision Summary

Court	B.C. Supreme Court
Citation	2015 BCSC 1443
Result	Petition Dismissed
Judge	Madam Justice Fenlon
Date of Judgment	April 2, 2015
WCAT Decision Reviewed	WCAT-2014-02287

Keywords:

Judicial review – Section 257 of the Workers Compensation Act (Act) – Whether plaintiff in civil action was a worker within the meaning of Part 1 of the Act – Whether an altercation arose out of and in the course of employment

Summary:

The plaintiff Craig Anderson commenced a civil action against the defendants Al Skene and Ellett Industries Ltd. (Ellett) for damages for personal injuries. The plaintiff and Mr. Skene were employees of Ellett. The plaintiff claimed that Mr. Skene assaulted him at work, resulting in personal injuries. The plaintiff also claimed against the defendants for defamation and mental stress injury, and against Ellett for negligent investigation of workplace events.

Ellett applied to the Workers' Compensation Appeal Tribunal (WCAT) under section 257 of the *Workers Compensation Act* (the *Act*) for a determination of the status of each of the parties to the civil action.

WCAT found that the plaintiff was a worker within the meaning of Part 1 of the *Act*, and that any injuries he suffered arose out of and in the course of his employment. It found also that Mr. Skene's conduct and the actions or conduct of Ellett and its servants and agents arose out of and in the course of employment.

The petitioner (plaintiff in the civil action) applied for judicial review of WCAT's decision. The court rejected the petitioner's argument regarding inadequacy of the tribunal's reasons. Inadequacy of reasons does not constitute a separate ground of review. Even if it did, WCAT's reasons were more than adequate because they allowed the court to understand why the vice chair made the decision he did and to assess whether the decision fell within a reasonable range of acceptable outcomes.

The court rejected the petitioner's challenge to three findings of fact in the WCAT decision. The first finding was that there was a history of ill feeling between Mr. Anderson and Mr. Skene. The second finding was that both men exaggerated and dramatized the events around the altercation. The third finding was that Mr. Anderson and Mr. Skene were equally at fault and that Mr. Skene should not be found to be the aggressor. There was some evidence that could support all of these findings and therefore they were not patently unreasonable.

The court considered each of these impugned findings because that is how the petitioner argued the case. However, the issue on judicial review was whether the overall decision was patently unreasonable, not whether each fact leading up to that conclusion was patently unreasonable. The overall decision was that the altercation in issue arose out of and in the course of employment. That decision was supported on the evidentiary record and in the tribunal's reasons. Therefore, it was not patently unreasonable.

The court dismissed the petition for judicial review.