

BAKER V. WORKERS' COMPENSATION APPEAL TRIBUNAL

Decision Summary

Court	B.C. Supreme Court
Citation	2007 BCSC 1517
Result	Judicial Review Allowed In Part
Judge	Madam Justice Dillon
Date of Judgment	October 15, 2007
WCAT Decision(s) Reviewed	WCAT-2005-03737

Keywords:

Duration of benefits – Psychological injury – Subpoena and production of employment personnel file – Costs under section 6 of the Appeal Regulation

The Court considered the Petitioners allegations that the Workers' Compensation Appeal Tribunal (WCAT) decision erred on a number of substantive and procedural issues including: whether the Petitioner's psychological condition was work related; the duration and extent of temporary disability benefits; failure to order production of the Petitioner's personnel file from his employer; and, failure to issue subpoenas.

The Petitioner was a full-time employee of Canada Post in 1998 when he injured his left knee while making deliveries. The Petitioner was awarded temporary disability benefits to March 19, 2000. In December 2002, the Petitioner applied for compensation for emotional stress, anxiety, and depression. The Workers' Compensation Board, operating as WorkSafeBC (Board) found that the Petitioner's psychological condition was not causally related to the 1998 compensable knee injury. WCAT confirmed the following decisions: the decision not to pay for physiotherapy beyond June 20, 2002; the decision that the Petitioner's condition remained plateaued in January 2002 and that he was not entitled to physiotherapy in February 2003; the refusal to re-open the physiotherapy issue; and the decision that the Petitioner's psychological condition was not causally related to the knee injury. WCAT decided that the Petitioner's compensable condition plateaued effective March 19, 2000, such that he was then no longer eligible for temporary wage loss benefits. WCAT held that no interest was payable on retroactive payments and denied the request for payment of legal expenses, except for the cost of obtaining medical reports.

The Court concluded that the standard of review was patent unreasonableness, and that on the substantive issues the WCAT decision was not patently unreasonable. The Court further concluded that it was patently unreasonable and unfair for WCAT not to have considered the issuance of subpoenas and production of the Petitioner's personnel file particularly in relation to whether the claim for psychological injury was causally related to the knee injury. This matter and legal costs under s. 6 of the Appeal Regulation were remitted to WCAT for determination.