

BALDWIN V. WORKERS' COMPENSATION APPEAL TRIBUNAL

Decision Summary

Court	B.C Supreme Court
Citation	2007 BCSC 942
Result	Judicial Review Dismissed
Judge	Mr. Justice Romilly
Date of Judgment	June 28, 2007
WCAT Decision(s) Reviewed	WCAT-2007-00065

Keywords:

Extension of time to appeal to Workers' Compensation Appeal Tribunal (WCAT) – Item #5.31 WCAT Manual of Rules of Practice and Procedure (MRRP) “Special Circumstances Precluded”

In this judicial review the Court considered a Workers' Compensation Appeal Tribunal (WCAT) decision which denied the Petitioner's application for an extension of time to bring an appeal from a decision of the Review Division of the Workers' Compensation Board, operating as WorkSafeBC (Board).

After receiving a Workers' Compensation Board (the “Board”) Review Division decision terminating his benefits, the Petitioner telephoned WCAT and informed WCAT of his intention to appeal the Review Division decision. WCAT informed the Petitioner that WCAT would initiate his appeal and send him a notice of appeal form to begin the process. The Petitioner received a letter from WCAT outlining the appeal process, but a form was not enclosed. When WCAT informed the Petitioner that his appeal would not proceed because he failed to submit the necessary forms on time, he contacted WCAT to inform them he had not received the form. He then completed and returned the notice of appeal and applied for an extension of time in which to bring an appeal. WCAT denied the Petitioner's application for an extension of time on the basis that WCAT's failure to provide appeal forms did not constitute special circumstances precluding the Petitioner from appealing on time. The letter from WCAT which the Petitioner did receive, informed him that he was required to submit further information before May 29, 2006 or face having his appeal treated as out of time.

The Court dismissed the Petitioner's application, finding that the standard of review was patent unreasonableness. The Court concluded that the WCAT decision was not patently unreasonable as there was a basis for the decision that there were not unusual circumstances.