

# Browne v. Moss

## Decision Summary

Court	B.C. Supreme Court
Citation	Oral Reasons (May 9, 2012), Vancouver S108151
Result	Judicial Review Dismissed
Judge	Mr. Justice Leask
Date of Judgment	May 9, 2012
WCAT Decision(s) Reviewed	WCAT-2010-02714 through WCAT-2010-02721 and WCAT- 2010-02723 through WCAT- 2010-02733

### **Keywords**

*Judicial review – Standard of review – Patently unreasonable – Section 257 certificates – Section 257 of the Workers Compensation Act – Item #21.00 (C3-18.00) of the Rehabilitation Services & Claims Manual, Volume II*

### **Summary:**

After working a shift at a farm managed by her grandfather, the Petitioner driver left from the farm in a truck with 14 passengers who had also been working at the farm. Soon after leaving, she crashed the vehicle. The passengers each sued the Petitioner driver and her mother, the registered owner of the vehicle, for damages in negligence. The Petitioners applied to the Workers' Compensation Appeal Tribunal (WCAT) under section 257 of the *Workers Compensation Act* to certify that the driver and the 14 passengers were each a worker in the course of her or his employment at the time of the crash. WCAT determined that each of the passengers was a worker injured in the course of her or his employment, but also determined that the driver, although a worker, was not in the course of her employment when she crashed the truck. Instead, WCAT determined that she was doing a favour for her grandfather by driving the other workers back to town.

The Petitioners petitioned the Court for judicial review of the WCAT decisions, saying the finding was based on an irrational, and therefore patently unreasonable, interpretation of policy item #21.00 of the *Rehabilitation Services and Claims Manual, Volume II* (Personal Acts, now policy item C3-18.00). Specifically, the Petitioners argued that the policy is meant to focus on the observable nature of a worker's actions and not the subjective motivation behind the actions (such as doing a favour for one's grandfather).

In its judgment, the Court was satisfied that there was a basis in the record for WCAT's conclusion and, therefore, the decisions could not be said to be patently unreasonable. The judge noted that the decisions were made by an expert tribunal deciding matters within its exclusive jurisdiction and he refused to reweigh the evidence.