

## CANADIAN BROADCASTING CORPORATION V. LIJUN LUO

### Decision Summary

Court	B.C. Supreme Court
Citation	2007 BCSC 971
Result	Judicial Review Dismissed
Judge	Mr. Justice Meiklem
Date of Judgment	July 4, 2007
WCAT Decision(s) Reviewed	WCAT 2005-01542

#### **Keywords:**

*Standard of review – Correctness – Jurisdiction of Workers' Compensation Board to determine employee status – Sections 2 and 4(2) Government Employees Compensation Act*

In this judicial review the Court considered whether the Workers' Compensation Board, operating as WorkSafeBC (Board) has jurisdiction to determine whether or not an individual claimant is an "employee" for the purpose of the federal *Government Employees Compensation Act* (GECA).

A man died in a motor vehicle accident while performing work paid for by the employer, a federal crown corporation. The man's widow applied to the Board for a spousal survivor pension pursuant to the *Workers' Compensation Act* (the Act). The employer advised the Board that it had notified the federal government Human Resources Development Canada (HRDC) of the accident and received HRDC's decision that the man was not an employee but an independent contractor under GECA and therefore not entitled to compensation. The Workers' Compensation Appeal Tribunal (WCAT) concluded that the Board had jurisdiction to determine whether a person is an employee under GECA.

The Court dismissed the Petitioner's application for judicial review. The Court found that the standard of review was correctness as the WCAT decision addressed the jurisdictional issue of whether or not GECA and/or the federal/provincial agreement grant authority to the Board to decide employee status. The Court found that WCAT was correct in its finding that the Board has jurisdiction to determine employee status under GECA.