

CIANELLI V. WORKERS' COMPENSATION BOARD OF B.C.

Decision Summary

Court	B.C. Supreme Court
Citation	2007 BCSC 862
Result	Judicial Review Allowed
Judge	Mr. Justice Cullen
Date of Judgment	June 15, 2007
WCAT Decision(s) Reviewed	WCAT-2003-01003-rb, WCAT-2006-01496, WCAT-2006-02384

Keywords:

Causation – Sections 5(1) and 250(4) of the Workers' Compensation Act - Standard of review – Patent unreasonableness

In this judicial review the Court considered whether the correct test for causation was applied by the Workers' Compensation Appeal Tribunal (WCAT) when determining if the Petitioner's back and leg symptoms were caused by workplace accidents.

The Petitioner was injured on two occasions while working as a mechanic at an amusement park. In 1993, he sustained mild fractures in his spine and leg when a ride fell on him. In 2000, he injured his ribs when he fell while working on a ride and received coverage until his graduated return to work five weeks later. The Petitioner subsequently sought compensation on the basis that the fall either caused or exacerbated further back and leg pain. The Workers' Compensation Board, operating as WorkSafeBC (Board) denied his claim for further coverage due to insufficient evidence that the symptoms were related to his previous injuries. WCAT confirmed the Board's decision not to accept the new symptoms as part of the Petitioner's claim (original decision). A WCAT reconsideration panel upheld the original WCAT decision (reconsideration decision).

The Court allowed the application, set aside both of the WCAT decisions and remitted the matter back to WCAT for a rehearing. The Court found that the standard of review was patent unreasonableness. The test imposed by the original panel was patently unreasonable as it placed a burden on the Petitioner, not to prove the July 6, 2000, injury was causative of the symptoms at issue, but to identify the specific source or sources of those symptoms. The Court concluded that to do so was an error of law which went to the original panel's jurisdiction to make the determination which was made. The Court further concluded that the reconsideration decision did not correct the jurisdictional error found in the original decision.