

CHIMA v. WORKERS' COMPENSATION APPEAL TRIBUNAL

Decision Summary

Court	B.C. Supreme Court
Citation	2009 BCSC 1574
Result	Judicial Review Allowed
Judge	Mr. Justice Myers
Date of Judgment	November 17, 2009
WCAT Decision(s) Reviewed	WCAT-2006-01428-RB, WCAT-2007-02380

Keywords

Psychological disability – Compensable consequence – Policy item #22.00 of the Rehabilitation Services and Claims Manual - Causation

In this judicial review, the Court considered whether a decision of the Workers' Compensation Appeal Tribunal which found that the worker's psychological disorder was not related to his compensable right-sided low back strain injury, but rather was related to a non-compensable disc protrusion, was patently unreasonable.

The worker suffered a compensable right-sided low back strain injury at work in 1998. He began developing psychological symptoms throughout 1999 but those did not rise to the level of a DSM-IV psychological disorder. In 1999, the worker was diagnosed with a non-compensable left-sided L5-S1 disc protrusion accompanied by a left-sided S1 nerve compression and left leg pain. His psychological symptoms worsened and by December of 2000 he was diagnosed with severe major depressive disorder (MDD) with anxious features.

The Workers' Compensation Board, operating as WorkSafeBC (Board), found that the worker's soft tissue injury had resolved by October 1999. That finding was upheld by the Review Board and the Appeal Division. The Appeal Division remitted the issue of the psychological injury as a compensable consequence of the compensable injury to the Board for consideration. The Board referred the worker for a psychological assessment.

The referral doctor confirmed the MDD diagnosis and found it was precipitated by the physical injury. The Board decided that the psychological injury was caused by the non-compensable physical injury and not the compensable injury, which had resolved long before the worker was diagnosed with MDD, and thus the MDD was non-compensable. The worker appealed.

The worker also appealed the decision of the Appeal Division to a Medical Review Panel (MRP). The MRP certified that the worker's compensable injury resolved and the Petitioner was not disabled by it after October of 1999. The MRP also certified that the Petitioner suffers from degenerative disc disease.

WCAT found that when the compensable back strain had resolved the worker had no psychological disorder and that the worker developed the psychological disorder subsequently in reaction to the non-compensable disc protrusion. That decision was upheld on reconsideration. The worker sought judicial review.

The Court found that WCAT had asked itself the wrong question when it focused on the temporal relationship between the physical injuries and the psychological injury without considering whether the compensable injury was causally significant in the development of the MDD despite the fact that the full onset of the MDD occurred after the compensable injury had resolved. Whether the non-compensable injury was a significant cause was not determinative of the question of whether the compensable injury was also a significant cause. The policy does not require that the compensable injury be the most significant cause or the sole significant cause. The Court remitted the matter to WCAT for reconsideration.