

Corcoran v. Workers' Compensation Appeal Tribunal

Decision Summary

Court	B.C. Supreme Court
Citation	2014 BCSC 1087
Result	Judicial Review Dismissed
Judge	Mr. Justice Affleck
Date of Judgment	June 17, 2014
WCAT Decision(s) Reviewed	WCAT-2013-01869 WCAT-2014-00647

Keywords

Judicial review – Patent unreasonableness – Section 55 of the Act – Application within one year of injury– Special circumstances – New evidence

Summary

The petitioner injured himself in 1993. At the time of the incident, the worker reported the injury to his employer and completed an incident report, but did not report his injury to the Workers' Compensation Board (operating as WorkSafeBC, the "Board"). The employer also did not report the petitioner's injury to the Board.

In 2011, the petitioner filed an application for compensation with the Board. The Board denied the petitioner's application for compensation because the statutory deadline for filing a claim had passed. The Review Division upheld the Board's decision. The Workers' Compensation Appeal Tribunal (WCAT) denied the petitioner's appeal. The petitioner applied to WCAT for reconsideration, which was denied.

The petitioner brought an application for judicial review of WCAT's original decision and the reconsideration decision. On judicial review, the petitioner sought to introduce new evidence and argued that he had fulfilled his statutory reporting obligations by reporting the injury to his employer. He also argued that WCAT's decision was patently unreasonable in not placing more weight on a letter corroborating both the occurrence of the 1993 injury and his report of the injury to the employer.

On judicial review, the chambers judge found that the original WCAT decision, not the reconsideration decision, was the appropriate focus of review. The Court also denied the petitioner's application to introduce new evidence because he had not exhausted the internal remedies available to him through WCAT.

The Court determined that WCAT was not patently unreasonable in finding that special circumstances had not precluded the petitioner from filing his claim within one year of his injury. The Court noted that both employers and workers have reporting obligations under the *Workers Compensation Act*, and a worker cannot escape his or her obligation to make a report of injury to the Board by assuming the employer will report on his behalf. In the circumstances, the petitioner was aware of the need to report his injury to the Board, and his difficulty obtaining hospital records between 2000 and 2011 did not constitute “special circumstances” which would have precluded him from applying for compensation within a year of the 1993 injury.

The petitioner also argued that WCAT’s failure to hold an oral hearing was a breach of procedural fairness. The chambers judge determined that the petitioner knew the case he had to meet and was given a full opportunity to respond in writing. In the circumstances, WCAT had not breached procedural fairness.

The Court dismissed the petitioner’s application for judicial review.