

Decision Summary

Court	B.C. Supreme Court
Citation	2007 BCSC 24
Result	Class action proceeding certified
Judge	Madam Justice Gray
Date of Judgment	January 9, 2007
WCAT Decision(s) Reviewed	WCAT-2005-03622-RB

Keywords:

Certification of a proceeding as a class proceeding – Class Proceedings Act – Interest on retroactive disability awards

The Court considered an application for an order certifying a proceeding regarding the Workers' Compensation Board, operating as WorkSafeBC (Board), policy on interest on retroactive payments as a class proceeding under the *Class Proceedings Act*.

Mr. Johnson was injured in a workplace accident in 1985 and received benefits from the Board for several months that year. In 1999, he underwent surgery and sought further benefits from the Board on the basis that the 1999 surgery resulted from the 1985 workplace accident. The Board initially refused his claim for further benefits. Mr. Johnson successfully appealed. In late 2001, the Board paid Mr. Johnson retroactive wage loss benefits, but did not pay him any interest on the basis that he did not qualify under the Board's interest policy on retroactive payments. His appeal to the Workers' Compensation Appeal Tribunal (WCAT) was dismissed by a precedent panel. Mr. Johnson commenced a proceeding under the *Judicial Review Procedure Act* and requested certification under the *Class Proceedings Act*. The Board opposed certification of the proceedings as class proceedings. WCAT took no position on that issue.

The Court found that the JRPA proceeding was an appropriate case for certification as a class JRPA, so long as the class is properly described, and Mr. Johnson provides a plan with a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding.