

JOHNSON V. WORKERS COMPENSATION BOARD

Decision Summary

Court	B.C. Supreme Court
Citation	2007 BCSC 1410
Result	Judicial Review Allowed
Judge	Madam Justice Gray
Date of Judgment	September 26, 2007
WCAT Decision(s) Reviewed	WCAT-2005-03622-RB

Keywords:

Interest on retroactive disability awards – Item #50.00 of the Rehabilitation Services and Claims Manual (RSCM)

This was a judicial review of the Workers' Compensation Appeal Tribunal (WCAT) precedent panel's decision regarding the new interest policy on retroactive disability awards of the Workers' Compensation Board, operating as WorkSafeBC (Board).

WCAT found that the new interest policy had a retrospective effect and that the presumption against retroactivity did not apply. WCAT also determined that the Petitioner was caught by the new interest policy as a decision on interest in his case was not been made until after November 1, 2001.

The Court found that the standard of review was patent unreasonableness. The Court found that section 5 "compensation" includes interest, that nothing in the *Workers Compensation Act* supports a policy based on Board conduct (error), and that a policy not to pay interest unless there is staff error is patently unreasonable. The Court found further that it was patently unreasonable for the precedent panel to fail to conclude that the new interest policy was patently unreasonable and remitted the case to the WCAT precedent panel to reconsider.