

## JENSEN v. WORKERS' COMPENSATION APPEAL TRIBUNAL

### Decision Summary

Court	BCSC
Citation	2010 BCSC 266
Result	Judicial Review Dismissed
Judge	Mr. Justice Preston
Date of Judgment	March 1, 2010
WCAT Decision(s) Reviewed	2007-02536

### **Keywords**

*Rheumatoid arthritis - Compensable consequence – Aggravation of a disease – Pre-existing deteriorating condition - Policy items #15.00, 15.10, 22.30, 26.55 of the Rehabilitation Services and Claims Manual*

In this judicial review, the Court considered a decision of the Workers' Compensation Appeal Tribunal (WCAT) which found that the worker's rheumatoid arthritis was not caused, activated, or accelerated by his earlier 1994 compensable injury.

The petitioner, a long-haul truck driver, was injured at work on February 9, 1994. He was manoeuvring a dolly with a load of over 100 pounds down a ramp covered in snow when his foot slipped and he fell backwards into the door jam and door of a building, and the load struck him in the chest. The Workers' Compensation Board, operating as WorkSafeBC (Board), accepted his claim for compensation for injuries to the right side of his back, right shoulder, right wrist and fingers as compensable injuries. Shortly thereafter, the petitioner developed symptoms, which were later diagnosed as rheumatoid arthritis. He sought compensation for the rheumatoid arthritis on the basis that it was caused, activated, or accelerated by the compensable injury. WCAT in an August 24, 2007 decision found that the arthritis was not compensable as the evidence indicated that the disease was unlikely to be caused or aggravated by the 1994 injury. The Petitioner sought judicial review of the WCAT decision.

The Court dismissed the petition finding that there was evidence before the panel upon which it could come to the decision that it did, with the result that the WCAT decision was not patently unreasonable. The Court noted that the standard of review on questions of entitlement to compensation is patent unreasonableness, and patent unreasonableness is defined by the common law as it existed prior to the decision of *Dunsmuir v. New Brunswick*, 2008 SCC 9. The Court, applying that standard of review, found that WCAT: (1) did not err by finding that three other decision put before the panel were not persuasive because they were based on other medical evidence and involving other injuries; and, (2) was not required to detail all of the evidence before it relating to the petitioner's injuries. It was sufficient that the panel considered the medical evidence before it within the context of the injuries described by the petitioner and resolved the evidentiary issues.