

Moore v. Workers' Compensation Appeal Tribunal

Decision Summary

Court	B.C. Supreme Court
Citation	unreported
Result	Judicial Review Denied
Judge	Mr. Justice Bernard
Date of Judgment	September 12, 2013
WCAT Decision(s) Reviewed	WCAT-2009-02532 WCAT-2011-00987

Keywords:

Judicial review – Extension of time to file petition – Waiting for reconsideration decision at Workers' Compensation Appeal Tribunal – Serious grounds for relief – Prejudice to respondent

Summary:

The worker filed a petition for judicial review of a WCAT decision 15 months beyond the 60 day period for commencing an application for judicial review required by section 57 of the ATA. The petition was filed within one month of WCAT issuing a reconsideration decision. Approximately 26 months after the reconsideration decision was issued the petitioner filed an amended petition requesting that the reconsideration decision also be set aside.

On an application by the employer, the worker's amended petition for judicial review was dismissed for being out of time. The court concluded that the petitioner had not met the onus of satisfying the court that the three statutory conditions for an extension of time were satisfied. The court found that waiting for the WCAT reconsideration process to finish was not a reasonable explanation for the original 15 month delay. It found that there were no serious grounds for relief set out in the amended petition as it urged the court to reconsider the evidence which it is not permitted to do on judicial review (and in respect of the reconsideration decision it alleged no grounds). It also found that if the judicial review was successful and the matter was returned to WCAT for rehearing the employer would be prejudiced by the delay.