

Decision Summary

Court	B.C. Supreme Court
Citation	2009 BCSC 493
Result	Judicial Review Allowed
Judge	Mr. Justice Hinkson
Date of Judgment	April 14, 2009
WCAT Decision(s) Reviewed	WCAT-2008-00774

Keywords:

Psychological injury – Post traumatic stress disorder – Reopening – New claim - Standard of review – Patent unreasonableness

This was a petition for judicial review of a decision by the Workers' Compensation Appeal Tribunal (WCAT) which considered the Petitioner's claim for compensation which was requested on the basis that she was unable to work due to post traumatic stress disorder (PTSD).

In 1991 the Workers' Compensation Board, now operating as WorkSafeBC (Board), accepted the worker's claim for a left jaw injury that resulted from an assault by a patient in the course of her employment as a registered nurse. The Board paid temporary disability benefits from April 6 to April 23, 1991, after which the worker returned to work. In 1995 the Board accepted an adjustment disorder with anxiety under the 1991 claim on the basis that it resulted from the April 1991 assault. The Board paid wage loss benefits from January 6 to September 7, 1995 and paid for counselling, after which the worker returned to full-time work at her pre-injury job. In July 2000 the worker stopped work again because of mental stress. She requested the Board to reopen her 1991 claim for mental stress or to accept a new mental stress claim. The Board found that the worker's current symptoms were not related to the 1991 assault, and that her 1991 claim would not be reopened, and also disallowed a new claim for mental stress. WCAT confirmed the Board's decision. The Petitioner sought judicial review of the WCAT decision.

The Court allowed the appeal, finding that WCAT's rejection of an uncontradicted PTSD diagnosis was patently unreasonable. The Court also found that the requirement that a psychological injury be the result of a traumatic event was not patently unreasonable, and that WCAT's application of a test requiring an unusual stimulus was supported on a rational basis and thus that ground was dismissed.