

Decision Summary

Court	B.C. Supreme Court
Citation	2009 BCSC 1062
Result	Costs Application Denied
Judge	Mr. Justice Hinkson
Date of Judgment	August 4, 2009
WCAT Decision(s) Reviewed	WCAT-2008-00774

Keywords:

Costs

This was an application for costs against the Workers' Compensation Appeal Tribunal (WCAT). The Court, applying the principle in *Lang v. British Columbia (Superintendent of Motor Vehicles)* 2005 BCCA 244 (*Lang*) that generally an administrative tribunal will neither be entitled to costs nor be ordered to pay costs, dismissed the petitioner's claim for costs.

In *Page v. British Columbia (Workers' Compensation Appeal Tribunal)*, 2009 BCSC 493, the Court set aside the decision of the WCAT and sent it back for rehearing. The Court invited the parties to make submissions on costs.

In its decision on costs the Court relied on the B.C. Court of Appeal's decision in *Lang* which set out circumstances in which costs may be awarded against an administrative tribunal. These include where there was misconduct or perversity in the proceedings before the tribunal or where the tribunal argues the merits of a judicial review application rather than its own jurisdiction. As the Petitioner had agreed that WCAT acted appropriately in the course of the judicial review, the only issue was whether there was misconduct or perversity in the proceedings before WCAT. The Court rejected the Petitioner's argument that misconduct or perversity exists when a tribunal acts arbitrarily or fails to follow its own stated policies.