Stehlik v. W.C.A.T.

Decision Summary

Court	B.C. Supreme Court
Citation	(26 October 2016), Vancouver S156988 (oral reasons)
Result	Petition Dismissed
Judge	Mr. Justice Baird
Date of Judgment	October 26, 2016
WCAT Decision Reviewed	WCAT-2010-01291

Keywords:

Judicial Review – Patent unreasonableness – Application for Compensation (Section 55) – Extensions of Time (Court)

Summary:

WCAT-2010-01291 concerned the timeliness of the worker's application for compensation for an alleged October 1997 workplace injury. The worker (Mr. Stehlik) applied for compensation for this injury in 2009. The alleged 1997 injury was a back injury due to lifting heavy equipment in poor weather. WCAT found that there were no special circumstances that precluded the worker from filing an application within one year of the October 1997 injury. Thus, the application was time barred under section 55(2) of the *Act*.

WCAT based its conclusion on the following findings:

- While the worker's first language was not English, he was able to express himself well in written English. Thus, there were no language difficulties that would constitute special circumstances that precluded him from filing a claim within one year of the injury.

- The worker was well familiar with the workers' compensation system at the time of the alleged 1997 injury. He was seeking additional compensation from the Workers' Compensation Board (the Board) for a 1996 claim, during the same month [that is, October 1997] that he alleges the 1997 claim arose.

- Lack of knowledge that his condition may be work related was not a factor, because the worker said that he had a relatively sudden onset of low back pain from the alleged work incident.

- The worker had made a claim for criminal victim injury benefits for an assault that occurred in 1994. WCAT rejected the worker's submission that he thought that filing that claim would start his workers' compensation claim for the 1997 alleged injury. The panel found that it did not make sense that the worker would think that filing a criminal injury compensation claim for an assault would start a workers' compensation claim for a back injury due to lifting heavy equipment in poor weather.

Supreme Court:

The Court found that WCAT's decision was not patently unreasonable. The Court rejected Mr. Stehlik's submission before it that he thought his doctors had applied for compensation on his behalf. Mr. Stehlik was obligated as a worker to submit a claim on his own and this obligation was independent of any obligation of his physicians or employers. The Court found that Mr. Stehlik knew that he had to make a claim for the October 1997 injury, because at the time of that injury, he was in correspondence with the Board about his 1996 claim. The tribunal found that that was an indication that Mr. Stehlik knew the system and his obligations within it. The Court was unable to find that the tribunal's conclusion in this regard was unreasonable.

The Court said that it had reviewed the clinical notes in the record. The records covered the time period before and after October 3, 1997 but there was no mention in them of a workplace injury on that date.

The Court noted the 60-day timeline in section 57(1) of the *Administrative Tribunals Act* for filing a petition for judicial review. Mr. Stehlik had filed his petition over five years after the tribunal issued the impugned decision [and thus over five years beyond the 60-day timeline for filing a petition]. The Court was by no means satisfied that the grounds were met for extending the time to permit the petition to proceed, but it was prepared to deal with the merits of the petition for the sake of finality.

The Court said that the privative language in WCAT's statute was clear and strong. The Court could only overturn WCAT's decision if it was patently unreasonable. The Court found nothing at all unreasonable about WCAT's decision. WCAT's reasoning in every respect was perfectly sound. There was no basis upon which the Court might lawfully overturn WCAT's decision.

The Court dismissed the petition.