ORIGINAL

IN THE SUPREME COURT OF BRITISH COLUMBIA

Date: 20161026
Docket: S156988
Registry: Vancouver

Between:

Juraj Stehlik

Petitioner

And

W.C.A.T.

Respondent

Before: The Honourable Mr. Justice Baird

On judicial review from: Decision of Workers' Compensation Appeal Tribunal, May 10, 2010, by Vice Chair Teresa White

Oral Reasons for Judgment

In Chambers

Appearing on his own behalf:	J. Stehlik
Counsel for the Respondent:	K. Koles
Place and Date of Hearing:	Vancouver, B.C. October 21, 26, 2016
Place and Date of Judgment:	Vancouver, B.C. October 26, 2016

[1] **THE COURT:** Mr. Juraj Stehlik has brought this petition seeking judicial review of a decision rendered by the Workers' Compensation Appeal Tribunal on May the 10th, 2010 -- yes, Mr. Stehlik?

[2] JURAJ STEHLIK: Oh, I believe I did not make any mistake. I was --

[3] THE COURT: I know, Mr. Stehlik. I know what you meant to tell me.

[4] JURAJ STEHLIK: My life turned difficult, basically, and I do not know where to go from here. So I never got any assistance or any help from WCB --

[5] THE COURT: Okay.

[6] JURAJ STEHLIK: -- or WCAT or only sent for judicial review on the -- eight years later, basically, with --

[7] THE COURT: Okay. Mr. Stehlik, I have heard from you, and I am going to make a ruling now. Then I have to get on with a trial that was scheduled to resume 15 minutes ago. So have a seat, please. You can appeal me if you want.

[8] Mr. Stehlik's petition refers to matters concerning criminal injuries compensation which were not before the Tribunal and over which the Tribunal has no juridiction. In fact, Mr. Stehlik has already litigated his entitlement to criminal injuries compensation relating to two long-ago incidents, one in 1994 and one in 2005, and has exhausted all his remedies in connection to those claims. He has, in fact, been declared a vexatious litigant in respect of any further court process concerning them.

[9] Counsel for the respondent, in what I think was a sensible and helpful gesture, advised me that she was prepared to proceed with this petition on the basis that what was being sought was judicial review of the May 10, 2010 Tribunal decision to which I have already referred. She might just as easily, I think, have taken the position that Mr. Stehlik's petition should be struck, either because it refers to matters which have already been decided and about which he is forbidden by

court order from making further applications without leave, or because the pleadings are vague, unintelligible and inaccessible to a proper response.

[10] Instead, as I say, counsel for the respondent has offered and Mr. Stehlik has agreed to proceed on the basis that the present petition seeks judicial review of the decision previously referred to, in which the Tribunal dealt with an appeal dismissing the petitioner's claim for worker's compensation for want of compliance with the one-year time limitation set out in s. 55(2) of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492. Section 55(2) was engaged because the petitioner applied for compensation in respect of an alleged October 3, 1997 workplace injury on January 20th of 2009, over a decade out of time.

[11] I note here, Mr. Stehlik, your claim that you thought your doctors had applied for compensation on your behalf, but your obligation as a worker was to submit a claim on your own and this was independent of any obligation that fell upon your employer or your physicians. I find that you knew that you had to make a *Workers Compensation Act* claim in respect of any workplace injury because you had already made such a claim.

[12] In fact, at the time you allege you were injured at work on October the 3rd of 1997, you had an ongoing claim before the Workers' Compensation Board, and a couple of weeks later you were in correspondence with the Board about this previous claim. The Tribunal found that this was an indication, a clear indication, that you knew the system and your obligations within it. I am unable to say that the Tribunal's conclusion in this connection was unreasonable.

[13] Not only that, Mr. Stehlik, but I have looked through the medical records that were before the Tribunal and to which the Tribunal referred in its decision. Although the records cover the period before and after October 3rd, 1997, nowhere in them is there any mention of a workplace injury on that date.

[14] In its decision, the Tribunal dealt with the issue of whether, under s. 55(3.1) of the *Workers Compensation Act*, there were special circumstances in the petitioner's

case which precluded him from submitting his claim within the one-year period stipulated in s. 55(2). In a 15-page decision written by the Tribunal's vice chair, Teresa White, the Tribunal ruled that Mr. Stehlik had not established and the totality of the evidence did not support the inference that such special circumstances existed. I note in passing that for the first time this morning, in his reply submissions, Mr. Stehlik himself agreed that there were no such special circumstances. He claimed, instead, that he thought his doctors, his physicians, had applied for compensation on his behalf.

[15] Section 57 of the *Administrative Tribunals Act*, SBC 2004, c. 45 applies to the Tribunal. Section 57(1) provides that an application for review of the Tribunal's decision must be commenced within 60 days of the decision. The present petition was filed on October 21, 2015, over five years after the Tribunal issued its decision. I am by no means satisfied that the grounds for extending time to appeal referred to in s. 57(2) of the *Act* apply here. However, for the sake of finality, I will deal with the merits since the petition has been fully argued and counsel for the Tribunal did not stand vigorously by the statutory protection of s. 57(1).

[16] I may only overturn the Tribunal's decision respecting its interpretation and application of s. 55 of the *Workers Compensation Act* if I find it is patently unreasonable: *Corcoran v. Worker's Comp. Appeal Tribunal*, 2014 BCSC 1087 at paragraph 11. The Tribunal is an expert tribunal. Its decisions are to be accorded a great deal of deference. The privative language in the Tribunal's enabling statute is clear and strong. The patently unreasonable standard means "clearly irrational" or "evidently not in accordance with reason," *Pacific Newspaper Group v. Communications, Energy and Paperworkers Union*, 2014 BCCA 496. I am not to overturn the Tribunal's decision merely because I would have made a different decision, nor am I to retry the case or reweigh evidence.

[17] I do not intend to repeat here the reasons of Vice Chair White which are a matter of record. I will merely say that, having considered the record in its entirety, I find nothing at all unreasonable about her decision to dismiss the appeal on a s. 55

analysis. To the contrary it seems to me that her reasoning in every respect was perfectly sound. The decision was well within a range of reasonable outcomes in all of the circumstances. A rational basis for the decision is clearly discernible. There is, therefore, no basis upon which I might lawfully overturn Vice Chair White's decision and I am afraid, Mr. Stehlik, that for those reasons, your petition is dismissed.

[18] You can take that order, then, Ms. Koles. Do you want an order dispensing with Mr. Stehlik's signature?

[19] MS. KOLES: Yes, My Lord.

[20] THE COURT: All right, I will make that order. Is there anything else?

[21] MS. KOLES: No, My Lord.

[22] THE COURT: Thank you.

[23] Mr. Stehlik, I do not precisely know what is going on in your life. I do not know exactly where the truth lies. I do not know whether you were really injured in an accident in October of 1997 or not. As I said, I sympathize very strongly with your plight, but you are responsible for your own health, you have to take steps, you have to make claims if you think claims are available to you. You must not assume that other people will take steps on your behalf that you should be taking yourself. You have to do things yourself and you have to act expeditiously. You cannot let 10 years go by before pursuing remedies.

[24] JURAJ STEHLIK: I never did, I am sorry. I never did like any -- I did not have --

[25] THE COURT: I am aware of your position, Mr. Stehlik --

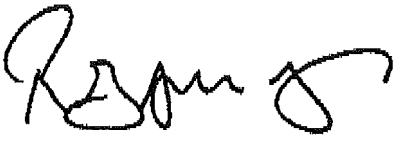
[26] JURAJ STEHLIK: -- any 10 years. Only I do not understand why am I seeing doctors and why would I involve in this and not doing something else. And another question is, may I turn to WCAT or WorkSafeBC or some other organization without judicial review?

[27] THE COURT: Well, you are entitled to access this court to review decisions of any administrative tribunal that deals with you, but you have to understand that this court's jurisdiction in respect of those tribunals is limited. You cannot come here and re-litigate your case. You cannot reargue your case or have me re-evaluate the evidence anew. I have a limited jurisdiction on these reviews and that is the way it is. All I can tell you is that, in future, you have to take care of yourself and you have to act promptly. Okay?

[28] JURAJ STEHLIK: How I take care of myself? Only source I can do is my income only I -- if I work for income, then, yes, but otherwise I cannot take care of myself.

[29] THE COURT: I know. Mr. Stehlik, I have made my ruling. You can take an appeal if you wish to, but that is where things stand as far as this court is concerned. I am going to stand court down briefly while counsel get organized. I have to get on with my ongoing trial, Mr. Stehlik. I have got to go.

[30] Thank you.



Baird J.