

Stovicek v. Providence Health Care Society

Decision Summary

Court	B.C. Supreme Court
Citation	2016 BCSC 227
Result	Judicial review allowed
Judge	Mr. Justice Silverman
Date of Judgment	January 27, 2016
WCAT Decision(s) Reviewed	WCAT-2014-03769

Keywords:

Judicial review – patent unreasonableness – weighing evidence – medical evidence – error of fact

Summary

The worker, a registered nurse, sustained an injury at work when she struck her arm. The Workers' Compensation Board (Board) decided that the worker recovered from her injury and denied Complex Regional Pain Syndrome (CRPS) under her claim. That decision was confirmed by the Review Division, and WCAT confirmed the Review Division decision, finding that the greater weight of medical evidence supported the conclusion that the worker did not develop CRPS.

The worker applied for judicial review of the WCAT decision, arguing that the decision was based on a patently unreasonable interpretation of the medical evidence.

The Court noted that WCAT had before it the opinion of a Board medical advisor, and reports from three other physicians, Drs. Sun, Reebye, and McDonald. There was no disagreement that Dr. Sun's opinion was that the worker had developed CRPS. As for Dr. McDonald, the WCAT decision stated that Dr. McDonald's report did not say the worker had CRPS. The Court found that statement was inconsistent with the statement in Dr. McDonald's report that he thought the worker "*sustained trauma to the left radial nerve with neuropraxia and subsequent CRPS affecting the left upper extremity.*" As for Dr. Reebye the WCAT decision stated that Dr. Reebye did not provide a clear opinion that the worker had CRPS. The court found that statement was inconsistent with the statements in Dr. Reebye's report that he was of the opinion that the worker's workplace injury "*led her to develop a complex regional syndrome type 2,*" and that the worker did have neuropathic pain symptoms "*as a result of the initial complex regional pain syndrome in her left arm.*"

The Court acknowledged that if WCAT had not made errors in characterizing the medical evidence, and still had preferred the Board medical advisor's opinion over the other medical evidence, the Court would likely give deference to that decision as one WCAT was entitled to make on the evidence. However, the errors resulted in patently unreasonable findings of fact with respect to the medical evidence rendering the conclusion based on those findings patently unreasonable.