

WOODS V. BRITISH COLUMBIA (WORKERS' COMPENSATION BOARD)

Decision Summary

Court	B.C. Supreme Court
Citation	2009 BCSC 1402
Result	Judicial Review Dismissed
Judge	Madam Justice Dillon
Date of Judgment	October 14, 2009
WCAT Decision(s) Reviewed	WCAT-2008-01331, WCAT-2008-02505

Keywords

Section 31.1 (Termination of periodic payments) - Policy #35.30 (Duration of temporary disability benefits) – Policy #40.00 (Projected loss of earnings method) - Exhaustion of internal remedies – Delay - Adequacy of reasons

In this judicial review the Court considered a decision by the Workers' Compensation Appeal Tribunal (WCAT) which considered whether the worker, a refrigeration mechanic, was still temporarily disabled as a result of his compensable injury after April 3, 2006, and whether policy #35.30 of the *Rehabilitation Services and Claims Manual* (RSCM) was patently unreasonable.

On February 25, 2005, the Petitioner fell from a ladder at work, injuring his scalp and lower back. His claim for compensation was accepted and he began to receive benefits on April 26, 2005. On November 23, 2005, his temporary wage loss benefits were terminated effective November 27, 2005, because the case manager at the Workers' Compensation Board, operating as WorkSafeBC (Board), found that the Petitioner had reached maximum medical improvement. On December 16, 2005, the Petitioner was awarded a 2.5% chronic pain permanent partial disability award effective November 21, 2005. On January 19, 2006, the case manager refused to reopen the claim and extend temporary wage loss benefits beyond November 21, 2005. In July 2006 the Review Division found that the changes in the Petitioner's left sacroiliac condition were compensable and that he had not reached maximum medical recovery on November 27, 2005. On January 3, 2007, the Board determined that the Petitioner's medical condition plateaued as of April 3, 2006. The Board's decision regarding temporary disability was appealed to WCAT. WCAT found that the worker was not temporarily disabled as a result of his compensable injury after April 3, 2006, and that policy #35.30 (Duration of Temporary Disability Benefits) of the RSCM was not patently unreasonable. The Petitioner's application for reconsideration of the WCAT decision was denied.

The Court dismissed the Petitioner's application for judicial review. The Petitioner argued that the interpretation of section 31.1 of the *Workers Compensation Act* (Act) contained in policy item #35.30 of the RSCM was patently unreasonable because it applied a temporal qualifier to "disability" in that section with the result that the Board terminates wage loss benefits once the worker's temporary disability ceases. The Court concluded that the interpretation of section 31.1 found in item #35.30 of the RSCM was a rational interpretation of the Act, and WCAT's

decision that the policy was not patently unreasonable was itself not patently unreasonable. The Court further found that the Petitioner was not entitled to proceed directly to court to challenge item #40.00 of the RSCM without first exhausting internal remedies by requesting a review at the Review Division of the underlying decision applying that policy. In response to the Petitioner's argument about adequacy of reasons, the Court found that the reasons of the WCAT panel were understandable and intelligible taken as a whole in light of the statement of facts and law in the decision and in light of the record.