

WU V. WORKERS' COMPENSATION APPEAL TRIBUNAL

Decision Summary

Court	B.C. Supreme Court
Citation	2005 BCSC 1449
Result	Judicial Review Dismissed
Judge	Mr. Justice Crawford
Date of Judgment	October 14, 2005
WCAT Decision(s) Reviewed	WCAT-2004-00311-AD

Keywords:

Section 16 of the Workers' Compensation Act – Vocational rehabilitation benefits - Item #88.30 Rehabilitation Services and Claims Manual 1 – Standard of review – Patent unreasonableness

The Court considered the Workers' Compensation Appeal Tribunal (WCAT) decision which found that the Petitioner, a machinist, was not eligible for vocational rehabilitation benefits.

In 1996 the Petitioner injured his left little finger while working as a machinist. The Workers' Compensation Board, operating as WorkSafeBC (Board), accepted his claim for compensation. In 2001 a Vocational Rehabilitation Consultant at the Board denied the Petitioner's request for retroactive job search benefits because the job search allowance he had earlier received was for an unusually long time of nearly two years, whereas the normal period for these benefits is 12 weeks.

WCAT found that the Petitioner was not eligible for vocational rehabilitation benefits. While the panel acknowledged there is a basis for considering an order for rehabilitation benefits on a retroactive basis, the vice-chair found that the evidence did not show that the Petitioner was earnestly seeking employment as required by item #88.30 of the *Rehabilitation Services and Claims Manual, Vol. I*.

The Court dismissed the Petitioner's application for judicial review, finding that the standard of review was patent unreasonableness. The Court concluded that there were no apparent or obvious defects on the evidence such that the decision is patently unreasonable and should be set aside. The Court found that there was a rational basis for WCAT's conclusion and that the panel had properly characterized the issue, reviewed the evidence, and applied relevant policy.