

Stehlik v. W.C.A.T.

Decision Summary

Court	B.C. Supreme Court
Citation	(01 December 2017), Vancouver S179938 (oral reasons)
Result	Petition struck
Judge	Mr. Justice Steeves
Date of Judgment	December 1, 2017
WCAT decisions identified in petition	WCAT-2010-01291; WCAT-2009-01788; WCAT-2015-02879

Keywords:

Judicial Review – Administrative Tribunals Act (section 57) – Extensions of Time (Court) – Crime Victim Assistance Act – Striking pleadings, Rule 9-5(1), Supreme Court Civil Rules

Summary:

Mr. Stehlik filed a petition that referred to three WCAT decisions: (1) WCAT-2010-01291, (2) WCAT-2009-01788, and (3) WCAT-2015-02879 (this latter decision was a reconsideration of the 2009 decision).

WCAT-2010-01291 had already been judicially reviewed by Mr. Justice Baird in October 2016. Mr. Justice Baird dismissed the petition: *Stehlik v. W.C.A.T.* (26 October 2016), Vancouver S156988 (B.C.S.C.). In November 2016, Mr. Stehlik filed materials with the Court of Appeal indicating that he wished to appeal Mr. Justice Baird's order, but he had not taken further steps in that matter as of December 1, 2017.

There were no legal or factual grounds set out in the new petition that referred to the three WCAT decisions. The petition simply referred to the numbers 4(1); 7(1); 13(1).

WCAT brought an application to have the petition struck, and the proceeding against the three decisions dismissed. Among other things WCAT said that on its face, the petition disclosed no reasonable claim. WCAT said that the references to "4(1), 7(1), and 13(1)" were presumably references to sections of the *Crime Victim Assistance Act*, S.B.C. 2001, c. 38. WCAT said that by referring to those sections, the petitioner presumably sought an award of criminal victim injury compensation benefits, by way of judicial review of the WCAT decisions. WCAT presumed this because in the previous petition that led to Mr. Justice Baird's decision, Mr. Stehlik referred to those same sections and appeared to indicate that he sought "criminal injuries compensation with WCAT."

Supreme Court decision:

Mr. Justice Steeves allowed WCAT's application.

The court said that the petition was in the barest of terms. It referred to 4(1), 7(1), and 13(1) only. It was not at all clear what the petition was about. Of more concern was the fact that those numbers appeared to represent provisions of criminal injury legislation. However, WCAT has no jurisdiction or legal authority over criminal injuries compensation matters. The 2010 WCAT decision decided that question.

That decision was under appeal to the Court of Appeal. Thus, it was not open to Mr. Stehlik to seek review of the 2010 WCAT decision [in Supreme Court] again.

The court said that there was another problem, which was that the petition was filed in October 2017 and sought to review decisions from 2009 and 2015. However, section 57 of the *Administrative Tribunals Act*, [SBC 2004] c. 45 states that judicial review of a final decision of a tribunal must be commenced within 60 days of the date the decision is issued. The petition was clearly well beyond the 60 days set out in section 57.

The court said that the above discussion meant that the petition must be struck under Rule 9-5(1) [of the *Supreme Court Civil Rules*]. The petition disclosed no reasonable claim, in as much as it was either out of time, or it indicated that the 2010 decision relates to the issue of criminal injuries benefits. This latter issue was before the Court of Appeal, having already been judicially reviewed.

The court granted an order striking the petition and dismissing the proceeding in relation to the WCAT decisions *WCAT-2010-01291*; *WCAT-2009-01788*; and *WCAT-2015-02879*.

The court said that the overall result of this was that the petition was struck and could not be heard now or at a subsequent date.