

Dr. Aref Tabarsi Inc. v British Columbia (Workers' Compensation Appeal Tribunal)

Decision Summary

Court	BC Supreme Court
Citation	2026 BCSC 631
Result	Referred back for redetermination
Judge	Basran
Date of Judgment	13 April 2026
WCAT Decision Reviewed	A2301449

Keywords:

Judicial review - Certification to court - Statutory interpretation - Whether “court” and “action” include an arbitrator and arbitration proceeding - Whether claim framed in contract concerns personal injury

Summary:

This judicial review addressed whether WCAT has jurisdiction under s. 311 of the Workers Compensation Act to issue a certification in relation to private arbitration proceedings.

The doctor alleged that workplace harassment by a colleague caused him mental distress, medical leave, and led to non-renewal of his professional corporation's service contract with the health authority. He commenced arbitration pursuant to the terms of the contract, and alleged that the employer breached the contract by failing to provide a safe workplace. The doctor sought damages including lost income, expenses, and moral damages.

The health authority applied to WCAT for a certification to court, asserting that “court” included arbitrator and “action” included arbitration. The health authority argued that the doctor's damages were in the nature of a personal injury.

Applying the modern approach to statutory interpretation, WCAT concluded that a broad interpretation of “court” and “action” is supported by the historic compromise underlying workers' compensation. WCAT further held that, despite being pleaded as contractual claims, the arbitration was based in part on personal injury, because the alleged mental disorder was integral to the damages sought.

On judicial review, the Court held that these interpretations of “court” and “action” were too broad. Treating private arbitration as a “court action” interfered with freely negotiated contracts and impermissibly expanded WCAT's jurisdiction without clear legislative authorization.

However, the Court found no reviewable error in WCAT's finding that the arbitration claim was based on a personal injury, despite being framed as breach of contract. The damages sought were inextricably linked to alleged mental distress arising from workplace conduct, which falls within the scope of the WCA.

For disposition, the Court referred this matter back to WCAT for redetermination.