

Noteworthy Decision Summary**Decision:** WCAT-2003-01132-rb **Panel:** Debbie Sigurdson **Decision Date:** June 24, 2003***Refer matter back to the Board - Section 38(2) Workers Compensation Amendment Act (No.2), 2002***

In proceedings before WCAT, instead of making a decision on the appeal under section 253(1) of the *Workers Compensation Act*, WCAT has discretion to refer a matter back to the Workers' Compensation Board (Board), with or without directions. This discretion applies only to an appeal that was before the Workers' Compensation Review Board or the Appeal Division of the Board on March 3, 2003 that was continued as a WCAT appeal. The Board's decision made under the referral may be reviewed by the Review Division of the Board. (See *the Workers Compensation Amendment Act (No. 2), 2002*, section 38(2)).

In this appeal, WCAT has determined that the matter of acceptance of the worker's claim should be referred back to the Board, with direction to determine whether the worker's diagnosed carpal tunnel syndrome was caused by his employment activities. The information on the claim file indicates the original decision considered the initial diagnosis of bilateral wrist and elbow tendonitis. The decision as to whether the worker's carpal tunnel syndrome is compensable is best suited to the Board's mandate as original decision maker.

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This appeal was filed with the Review Board. On March 3, 2003, the Workers' Compensation Appeal Tribunal (WCAT) replaced the Appeal Division and Review Board. As a Review Board panel had not considered this appeal before that date, it has been continued as a WCAT appeal. (See the *Workers Compensation Amendment Act (No. 2), 2002*, section 38(1)).

In proceedings before WCAT, instead of making a decision on the appeal under section 253(1) of the *Workers Compensation Act*, the appeal tribunal has discretion to refer a matter back to the Workers' Compensation Board (Board), with or without directions. This discretion applies only to an appeal that was before the Review Board or the Appeal Division on March 3, 2003 that was continued as a WCAT appeal. The Board's decision made under the referral may be reviewed by the Workers' Compensation Review Division. (See the *Workers Compensation Amendment Act (No. 2), 2002*, section 38(2)).

In this appeal, WCAT has determined that the matter of acceptance of the worker's claim should be referred back to the Board, with direction to determine whether the worker's diagnosed carpal tunnel syndrome was caused by his employment activities. The information on the claim file indicates the original decision considered the initial diagnosis of bilateral wrist and elbow tendonitis. The decision as to whether the worker's carpal tunnel syndrome is compensable is best suited to the Board's mandate as original decision maker.

Conclusion

This is a summary decision that constitutes a final disposition of this appeal. It is not, however, a final disposition of the subject matter or merits of the appeal.

Debbie Sigurdson
Vice Chair

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