

Ahluwalia v. WCAT

Decision Summary

Court	BC Supreme Court
Citation	2022 BCSC 2139
Result	Petition dismissed
Judge	MacNaughton
Date of Judgment	8 December 2022
WCAT Decisions Reviewed	A2001511 & A2001572

Keywords:

Judicial review of compensation and prohibited action decisions - Assessment of workplace stressors has both subjective and objective elements - WCAT's proper role is to assess the evidence as a whole, not the quality of the employer's investigation - No inference to be drawn from non-participation of employer in appeal and review - WCAT should be presumed to have considered all evidence and arguments even if not all are cited in the decision - WCAT decision must be assessed as a whole, not parsed and dissected

Summary:

The worker was a new employee with a restaurant chain when she was allegedly bullied and harassed by her managers. She complained to the higher-ups in the company, who conducted an investigation, following which the managers received coaching, and she was assigned to a different restaurant. However, the worker alleged that the investigation was flawed, and that she continued to be mistreated, with the result that she developed a mental disorder.

The worker filed a claim for compensation and also a complaint of prohibited action. Following a Board investigation of her allegations, and receiving written argument from the worker, the Board denied the worker's compensation claim and complaint of prohibited action. The Review Division confirmed the Board's compensation decision, and the worker appealed to WCAT. The worker also appealed the Board's prohibited action decision directly to WCAT, as the Review Division has no jurisdiction in prohibited action matters. Both appeals were referred to the same Vice Chair, who rendered parallel decisions on the same date, in which he dismissed both appeals.

On judicial review, the worker argued that the Vice Chair was biased because he stated that one cannot use a purely subjective approach in assessing whether a work-related stressor is "significant" within the meaning of the Act. However, the Court affirmed that such assessments do indeed have both subjective and objective elements.

The worker also argued that the employer's investigation was flawed. While allowing that perhaps the employer could have done better, the Court noted that WCAT's role was not to determine the quality of the employer's investigation or its record-keeping, but to assess the evidence as a whole to determine whether bullying, harassment, or prohibited actions occurred.

The employer did not actively participate in the WCAT or Supreme Court proceedings, and the worker argued that its evidence should therefore be given less weight. The Court rejected this argument, noting that the employer was not required to participate, apart from responding to WCAT's request for documentation, which it did.

As for the worker's argument that the Vice Chair disregarded portions of her submissions, the Court held that it should presume that WCAT considered all of the evidence and argument, even if not all is recited in the reasons.

In conclusion, the Court summarizes the worker's submission on judicial review as an attempt to re-argue her case in the hope of a different outcome. However, a judicial review is neither a re-hearing, nor is it an appeal. The WCAT Decisions should be read as a whole without a line-by-line treasure hunt for error. The Vice Chair's conclusions, read as a whole, were supported by evidence, and were not patently unreasonable.