

Rear v. British Columbia (Workers' Compensation Appeal Tribunal)

Decision Summary

Court	BC Supreme Court
Citation	2023 BCSC 1513
Result	Allowed
Judge	Crerar
Date of Judgment	28 August 2023
WCAT Decision(s) Reviewed	WCAT-2015-01680

Keywords:

Assessment of expert evidence – Worksite evaluation – Keyboarding – Activity-related soft tissue disorder (ASTD) – Tendonitis – Independent health professional (IHP)

Summary:

The Petitioner, a registered nurse, worked on an emergency ward. Then in the Fall of 2012 she began working in several roles which involved mainly desk work and keyboarding. In the Summer of 2013, she experienced gradually increasing pain in her hands and wrists. She consulted with her family doctor, and her employer arranged an ergonomic assessment of her workstation. Her symptoms persisted, however, and she stopped working in September 2013.

In response to the Petitioner's claim for compensation, the Board conducted a workplace assessment to determine whether her tendonitis was work-related. However, this assessment was performed on the new workstation configuration. It included a few minutes of video, and the case manager's report was one page long. The Board also obtained an opinion from a Board medical adviser (BMA), who reviewed the file, including the case manager's report, and opined that the tendonitis was not work-related. Accordingly, the Board denied the claim.

On appeal to WCAT, the Petitioner obtained an assessment by an ergonomist, which included a 40-minute video of her performing her work duties at a re-creation of her original workstation configuration. The ergonomist produced a detailed report setting out his observations and relating them to the Board's ASTD policies. The Petitioner also obtained a report from her family doctor.

In her decision, the WCAT panel noted that the ergonomist's report was based on the original configuration of the workstation, and she accepted many of his observations and findings. The Panel also noted the difference of opinion among the medical experts, but held that it was not necessary to obtain an IHP because there was sufficient evidence upon which to base her decision, and the outcome of the appeal depended mostly on Board policy. Reviewing the evidence as a whole and in light of Board policy, the panel came to the conclusion that the Petitioner's workplace activities and conditions were not of causative significance.

On judicial review, the Court ruled that the Panel's reliance on the Board assessment and the BMA report was patently unreasonable because they were based on the reconfigured workstation. Also, the Court noted that WCAT is not deemed to have medical expertise, and therefore, it was patently unreasonable for the Panel to draw conclusions on matters requiring medical expertise that were contrary to the uncontradicted reports of the ergonomist and the family doctor.