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## CASE SUMMARY: SUPREME COURT ORDERED A NEW HEARING BASED ON WORKERS' COMPENSATION APPEAL TRIBUNAL'S PATENTLY UNREASONABLE FINDINGS OF FACT

Administrative law – Decisions of administrative tribunals – Workers Compensation Boards; Workers Compensation – Benefits – Expert evidence; Judicial review – Evidence

*Stovicek v. Providence Health Care Society*

Application for judicial review of the decision of Workers' Compensation Appeal Tribunal (WCAT) on the basis WCAT made patently unreasonable findings of fact.

[2016] B.C.J. No. 236

2016 BCSC 227

British Columbia Supreme Court

January 27, 2016

A.H. Silverman J.

The petitioner, a registered nurse, injured her arm at work and suffered a workplace injury on December 31, 2012.

The Workers' Compensation Board (the "Board") concluded her benefits ended on March 22, 2013, that she was able to return to work, and that she had not developed complex regional pain syndrome ("CRPS") as a result of the injury.

The petitioner sought a review to the Review Division, which affirmed the Board's conclusion.

The petitioner appealed to WCAT, which affirmed the Review Division's decision and dismissed the appeal.

The petitioner sought judicial review of WCAT's decision dismissing her appeal. The petitioner argued WCAT made findings of fact the petitioner did not suffer from CRPS that were patently unreasonable.

On judicial review, the Court concluded WCAT's decision was patently unreasonable, considering the evidence that was before the Board. WCAT erred in analyzing two of the three medical reports presented by the petitioner in a mistaken way. WCAT concluded two physicians had not expressly opined the petitioner suffered from CRPS as a result of the injury. WCAT concluded the physicians' opinions with respect to CRPS were equivocal. The court characterized those conclusions as simply wrong. For example, one of the petitioner's physicians reported "I am of the opinion that [the petitioner's] work place injury of December 31, 2012 led her to develop a complex regional pain syndrome type 2" and "I am of the opinion [the petitioner] likely developed a complex regional pain syndrome type 2 ..." and "I am of the opinion that she does have significant neuropathic pain symptoms as a result of the initial complex regional pain syndrome in her left arm." WCAT concluded that physician did "not provide a clear opinion" the petitioner had the diagnosis of CRPS.

The court concluded WCAT's decision was patently unreasonable based on the evidence before the Board. The court ordered a rehearing.

This case was digested by [Joel A. Morris](#) of Harper Grey LLP. If you would like to discuss this case further, please feel free to contact him directly at [jmorris@harpergrey.com](mailto:jmorris@harpergrey.com) or review his biography at <http://www.harpergrey.com>.