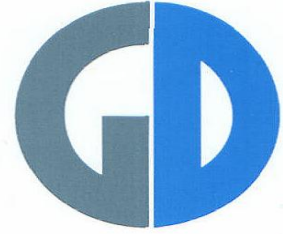


Gun & Davey

Covered



Vol 1, Issue 20 – June 2000

COVERED CASES

Case Snippets

A & R

[2000] SAWCT 46

The Workers Compensation Tribunal recently upheld the Corporation's decision to reject a worker's claim for neck, back, internal and emotional injuries suffered during an alleged sexual assault in the course of her employment.

Despite requests by the Corporation, the worker refused to disclose the identity of her assailant. The Corporation rejected her claim pursuant to Section 53(3) of the Act.

The Tribunal held that this was pertinent information as the identity of the alleged assailant may produce evidence capable of establishing that the assault had nothing to do with the worker's employment. Whether or not the worker's decision to refuse to provide the information was reasonable was not to the point.

His Honour Deputy President Gilchrist held that the wording of Section 53(3) and in particular the word "may" indicates that it is a matter for the discretion of the compensating authority. A decision whether or not to exercise that discretion is a matter for the compensating authority and is not a reviewable decision for the purposes of the Act.