



COVERED CASES

Case Snippets

WORKCOVER -v- DAVIDSON

[2000] SAWCT 32

This decision involved two Notices of Dispute and an Application for Expedited Decision lodged by the worker. The first Notice of Dispute related to a discontinuance of the worker's weekly payments pursuant to Section 36(1)(g). The second Notice of Dispute related to a decision of the compensating authority to refuse the worker's request to reside outside of the state. The worker also lodged an Application for Expedited Decision seeking to invoke the special jurisdiction to expedite decisions contained within Part 6B of the Act.

By an Application for Directions the worker sought amongst other things to have all proceedings heard together at Judicial Determination. When hearing the Application for Directions, His Honour Deputy President Acting Judge Gilchrist ordered that all matters be heard together and they proceed to immediate Judicial Determination.

The Corporation appealed this order. The focus of the debate became whether or not the Tribunal possessed the jurisdiction to review the Corporation's refusal to consent to the worker residing out of the State or the withholding of such consent.

The Full Bench held that when looking at the underlying scheme of the Act it is clear that Parliament intended for the decisions of compensating authorities to be subjected to painstaking review. Given that the decision to grant or withhold consent has the potential to significantly affect the rights and entitlements of a disabled worker, it would be surprising if such a decision was immune from review. On this basis the Full Bench held that such a decision can be fairly characterised as "a decision on a claim for compensation" for the purposes of Section 89A(1)(c) and due to the nature of the possible consequences of the decision, is reviewable upon its making.

The decision to apply Section 36(1)(g) is also reviewable. The Tribunal declined to follow earlier decisions of the WCAT to the contrary.

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