



COVERED CASES

Case Snippet

EYWARD v SELECT STAFF PTY LTD

WCT Full Bench

[2000] SAWCT 192

In this matter upon a referral directly to the Full Bench pursuant to Section 94A(ii), it was held that the deemed breaches of mutuality set forth in Section 36(1A)(a)(ii) and (e) apply equally to partially and totally incapacitated workers. However, Section 36(1A)(g) only applies to partially incapacitated workers.

In this case, the worker was partially incapacitated at the time of discontinuance of weekly payments pursuant to Section 36(1)(f) when she took unpaid maternity leave. At a later date, she became totally incapacitated for some six weeks following surgery consequent to the compensable disability.

The Full Bench stated that no purpose would be served by relieving the compensating authority from paying income maintenance to a totally incapacitated worker, who by reason of the compensable disability was unable to perform suitable duties offered in any event. The worker thus received income maintenance for the periods during which she was totally incapacitated.