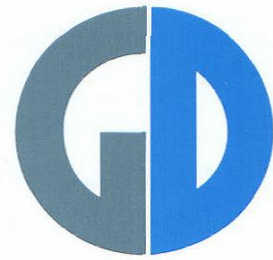


Gun & Davey

Covered



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CASE SNIPPETS

PIGNATARO

In Issue 9 of *Gun & Davey Covered Cases*, we featured the Workers Compensation Tribunal decision of Pignataro (JD10/1998).

This matter was appealed to the Full Bench of the Tribunal in JD43/1998.

To recap, the facts were that the worker's weekly payments were discontinued pursuant to Section 36(1)(f) and (1A)(f)(i) due to failure to undertake work that had been offered to him and that he was capable of performing.

The Full Bench considered that the word "work" had been correctly interpreted by the learned Deputy President at first instance as -

"an opportunity to sell one's labour...[and] to come upon the employer's premises to undertake tasks connected with the employer's business and to be paid for doing so", provided that "the provision of duties [were not] calculated to demean or embarrass an injured worker".

It was not necessary to show that the work undertaken by a worker constituted "valuable work" i.e. work of value to the employer. It was therefore irrelevant in the facts of this case that the work offered to the worker by his pre-injury employer was supernumerary in nature.

As an aside, the Tribunal recognised that there is no obligation in Section 36(1A)(f)(i) to warn a worker of the potential consequences of continued unexplained absences.

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