



**COVERED CASES**

**Case Snippet**

**TOOHEY v WORKCOVER**  
**(AMS ENGINEERING PTY LTD)**

**Decision of WCT**

**[2000] SAWCT 132**

Here, the issue was whether the discontinuance of the worker's weekly payments pursuant to Section 36(1)(g) of the Act was warranted.

In 1996 the worker suffered a major depressive illness and his claim was accepted. The worker commenced rehabilitation and returned to work on modified duties and hours. The return to work was not successful and the worker decided the best way of recovering from his depressive illness was to leave Adelaide and move to Bundaberg, Queensland.

The worker advised the Corporation of his intended move and upon arrival in Queensland consulted with a psychologist and continued to see her on a regular basis. The worker's depression improved and he recovered to the extent that he was able to obtain a position as a welder.

Deputy President Gilchrist was not satisfied that as a result of the worker continuing to reside outside of the State the prospects of the worker obtaining suitable employment were adversely affected or that it would affect the worker's prospects of obtaining suitable medical treatment.

He agreed that the worker's absence from the State meant that the corporation had lost its capacity to exercise a "hands on" approach to the worker's rehabilitation, or to use its preferred consultants or medical experts, however he considered that these factors were not decisive in themselves.

The evidence did not support the finding that the worker's absences from the State had led to any significant financial consequence for the Corporation or that the Corporation's capacity to monitor the worker's medical and rehabilitative progress was compromised.

Due to the history of the Corporation's previous unsuccessful attempts at returning the worker to work and the abovementioned findings, Deputy President Gilchrist held that the decision to invoke Section 36(1)(g) of the Act was wrongly made and the decision should be set aside.