Cameron Hall
COMPENSATION LAWYERS



AAT decides Australia Post must pay worker's compensation to bullied employee

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In the 2023 Comcare worker's compensation case of Yawari and Australia Postal Corporation, the Applicant (the worker), Ms Yawari, applied to the Administrative Appeals Tribunal/AAT ("the Tribunal") because her employer, Australia Post, refused her application for workers compensation for mental injury which she claimed was due to:

> *'…I always got bullied, discriminated and harassed because of my religion, appearance and race. I was on and is (sic) mentally injured because of what I have been going through at AusPost'*

What did the AAT have to decide?

The Tribunal was required to consider whether Ms Yawari had suffered an 'injury', and if so, whether her employment at AusPost contributed to her injury (in this case, a mental injury), or at least an aggravation of it, to a significant degree.

One of the more important aspects of a mental injury claim under the Federal Comcare scheme is establishing that the injured worker's employment contributed to the mental injury to a 'significant degree'. The relevant Act actually defines 'significant degree' to mean "a degree that is substantially more than 'material''.

AAT scathing of Australia Post's internal investigation

The Tribunal accepted that Ms Yawari had been intimidated by various acts by other workers within the workplace. Indeed, it's important to note that the Tribunal was of the view that some of her co-workers didn't intend to 'bully or harass' her, but that various of their actions towards Ms Yawari were, on balance, unacceptable.

In this regard, the Tribunal accepted the evidence of co-workers that they were only acting in ‘jest’ towards Ms Yawari, but that didn’t matter. The Applicant did not see the humour in their actions, and they contributed to the development of her mental injury. That was sufficient for the purposes of establishing that employment was a significant contributing factor.

Ultimately, the Tribunal was somewhat scathing of the manner in which Australia Post conducted some investigations into what occurred. The Tribunal described some of Australia Post’s employee’s actions as resembling a ‘witch hunt’ and indeed ‘traumatising’ Ms Yawari for no good reason.

AAT finds in favour of the injured worker

The Tribunal heard evidence from both sides, including expert medical evidence from two psychiatrists. The hearing went for 8 days.

The Tribunal noted that it doesn’t need to be satisfied that the Applicant suffered from a ‘diagnosable’ psychological condition. Rather, it only needs to be satisfied that Ms Yawari’s mental condition is one that is ‘outside the boundaries of normal mental functioning and behaviour’.

But the Tribunal also had to be satisfied that the worker’s employment had contributed to her mental injury to a degree that is "substantially more than material".

Australia Post attempted to convince the Tribunal that the injured worker’s mental condition was long-standing (ie, pre-dated her time at AusPost) and had nothing to do with what she claimed occurred whilst at work with them.

However, the Tribunal wasn’t convinced of this and instead accepted that Ms Yawari had indeed struggled with the stressors she nominated in her Comcare worker’s compensation claim documentation.

That is not to say that the Tribunal accepted that there were no other stressors in her life which may have contributed to her mental state. However, the test remains that employment be a (not the only but a) significant contribution to the development of an injured worker’s mental condition.

Get help from a worker’s compensation lawyer

This case again highlights that you should not simply accept a decision to deny or reject your worker’s compensation claim (or any other adverse decision related to your claim). There are always options to dispute any decision to either not accept your claim for worker’s compensation, or to cease it prematurely.

Seek advice from an experienced worker’s compensation lawyer to find out your rights to get the compensation you deserve. Call us for free advice – it costs you nothing to find out where you stand.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.