

WBJM and Comcare [2015] AATA 143 (13 March 2015)

Key Points

- Whether the cost of insuring an aid or appliance is considered an integral part of the aid or appliance pursuant to section 39 of the SRC Act.

Background

The applicant suffered from an underlying health condition that was aggravated at work. Comcare accepted liability for the aggravated condition and made a decision to provide the applicant with a Segway as an aid or appliance under s 39(1)(e) of the SRC Act.

The Tribunal was required to consider whether Comcare was liable to meet an additional cost associated with the Segway – namely, the cost of its insurance.

The Law

Section 16 of the SRC Act, provides that Comcare must pay compensation for medical treatment, reasonably obtained in respect of a compensable injury.

Section 39 of the SRC Act, provides that compensation may also be payable in respect of any aids or appliances for use by the employee, certain alterations to their place of residence or work and vehicle modifications if required. The section also applies to the repair or replacement of such aids or appliances.


Conclusion

The applicant submitted to the Tribunal that he used the Segway every day to move about within the workplace, and the risk of some sort of accident was always at the back of his mind. A number of insurance companies told him that he could get the Segway insured under a household contents insurance policy for \$345.26 per year, which included public liability cover that may protect the applicant in the event of an accident involving the Segway and another person.

Comcare contended that under the SRC Act, it did not have the power to pay for the insurance costs. Comcare accepted that it had an obligation to pay for the costs of acquiring, repairing and replacing the Segway but not any other associated costs.

As an alternative argument, the applicant said that the Segway was a form of reasonable medical treatment, and that the insurance costs could be paid under section 16.

The Tribunal found that an insurance policy was a contractual right against an insurer to provide cover against identified risks. It was held not to be the type of assistance contemplated by the expression "*aid and appliance*".



The Tribunal accepted that Comcare was not authorised to pay for the insurance in respect of the Segway and its operation under either s16 or 39 of the SRC Act, and affirmed the decision under review.

Lessons Learnt

The decision confirms that section 39 of the SRC Act, requires Comcare and licensees to compensate an employee for the cost of acquiring, repairing or replacing an aid or appliance, but not to pay compensation in respect of operating costs or insurance.

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