

## It pays to be honest: Tribunal considers section 7(7) defence *Griffiths and Australian Postal Corporation (Compensation)* [2017] AATA 1024

### Key Points

- The Tribunal was required to consider whether Ms Griffiths was entitled to compensation in respect of her psychological condition.
- The Tribunal found that Ms Griffiths had been wilfully dishonest in relation to her medical history, which showed that she had previously suffered a similar psychological condition and, as such, compensation was not payable in respect of the injury claimed.

### Background

Ms Griffiths had been an employee of Australia Post since 2011. Ms Griffiths alleged that she was subject to bullying and harassment by other employees in her workplace. Ms Griffiths lodged a claim for workers' compensation in respect of anxiety as a result of "*Bully and Harassment at work place*". Australia Post denied liability in respect of the claimed condition.

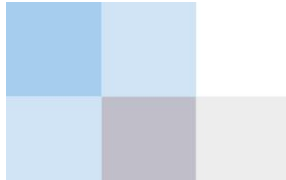
Ms Griffiths made a second claim for workers' compensation on 13 August 2015 in which she alleged that a series of incidents involving bullying and harassment had caused "*Anxiety + Depression*". Australia Post also denied liability for this condition.

Australia Post did not consider that Ms Griffiths' condition was compensable because the psychological illness claimed was the product of a long-standing illness and any condition from which she suffered was not contributed to a significant degree, by her employment at Australia Post. In the alternative, if she did suffer a condition from which her employment contributed to a significant degree, Australia Post submitted that liability for that injury was excluded under section 7(7) of the *Safety, Rehabilitation and Compensation Act 1988* (Cth) (**the SRC Act**), because Ms Griffiths made a false and willful misrepresentation that she had not previously suffered a similar injury from the claimed injury.

### The Law

Section 14 of the SRC Act provides that an employer is liable to pay compensation in respect of an injury suffered by an employee if the injury results in death, incapacity for work, or impairment.

Section 7(7) of the SRC Act provides that a disease or aggravation of a disease suffered by an employee shall not be taken to be an injury to the employee for the purposes of the SRC Act if the employee has, at



any time, made a willful and false representation in connection with his or her employment, that he or she did not suffer, or had not previously suffered, from that disease.

## Conclusion

On both of her workers' compensation claim forms, Ms Griffiths declared that she had never suffered a similar illness. Deputy President Gary Humphries considered that this constituted a representation, which was related to her employment. The evidence before the Tribunal indicated that Ms Griffiths had suffered a number of psychiatric episodes prior to her claims for workers' compensation. Deputy President Humphries considered the representations made on Ms Griffiths' workers' compensation claims were false.

Deputy President Humphries stated that the words "at any time" in section 7(7) of the SRC Act, mean that a claimant must make honest representations about his or her medical history on every occasion. It was clear that Ms Griffiths had not been honest with her employer in relation to her medical history. Deputy President Humphries was satisfied that Mr Griffiths made wilfully false misrepresentations about her previous medical history. As a result, Deputy President Humphries considered that the ailment was not a compensable injury under the SRC Act.

## Lessons Learnt

Where an employee has not been honest regarding their medical history throughout their employment, and that person makes a claim for workers' compensation, the injury claimed may fall under the exception provided under s7(7) of the SRC Act, and as such an employer will not be liable.

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