

Postman's pain is not enough  
*Dekker and Australian Postal Corporation [2018] AATA 682*  
(28 March 2018)

## Key Points

- The Tribunal was required to consider whether an employer was liable to pay compensation for two separate injuries sustained by Mr Dekker whilst working as a postman.
- The Tribunal found in favour of the employer because Mr Dekker could not prove that his work was a significant contributing factor to the claimed condition. It found the symptoms were the result of degeneration.

## Background

Mr Rodney Dekker was employed by Australia Post from 1990, as a postman in Wollongong. Mr Dekker lodged the following two claims for workers compensation:

- “Neck, left shoulder and arm/hand” injuries. The form was dated 28 April 2015 but did not refer to a specific incident. (The first Claim).
- On 16 September 2015 Mr Dekker lodged a second claim in respect of “soft tissue right shoulder/neck strain” with a date of injury of 16 September 2015. (The second Claim).

On 28 April 2015, an incident form was completed which recorded that Mr Dekker was having pain from his neck, shoulder, arm and hand due to nerves and pins and needles similar to a work incident in 2009. This claim was denied (the first Claim).

On 16 September 2015, an incident form was completed which recorded that Mr Dekker was sorting large letters into a V-frame when he felt a dull burning pain in his right shoulder. On 6 November 2015 a further claim was made, and liability denied (The second claim).

Mr Dekker relied on expert evidence from Dr Roger Pillemer, orthopaedic surgeon and Dr Arthur Stanton, vascular surgeon. The respondent relied on Associate Professor Neil McGill, rheumatologist. Dr Pillemer and Associate Professor McGill gave oral evidence concurrently at the hearing.

The essence of Associate Professor McGill's evidence was that the degenerative changes in Mr Dekker's cervical spine were likely to be constitutional and the pain experienced in 2015 was a reflection of those degenerative changes and not caused by work.

Dr Pillemer gave evidence that Mr Dekker may have had degenerative changes, but the nature and conditions of his work caused an aggravation of the underlying condition and therefore work was an essential contributing factor to the ongoing symptoms.



## The Decision

The Tribunal did not place much weight on Dr Pillemer's opinion as at hearing it became evident that he was not provided a complete and accurate history from Mr Dekker and that in arriving at his decision in his written report he relied on events that were not the subject of the claims that were before the Tribunal.

The Tribunal preferred the evidence of Dr McGill that Mr Dekker's symptoms were a reflection of degenerative changes in his cervical spine and hence confirmed the rejection of the claim.

## Lessons Learnt

To establish entitlement a worker needs to prove more than that he or she experienced pain at work. That is work must not merely be the scene of the pain; it must be a cause of it.

Particularly where a worker claims a vague or over a period of time injury, careful scrutiny should be given to their claim. Most importantly medico-legal evidence should be obtained from a genuine expert who is thoroughly briefed with information on the work performed by the worker and the history of the degenerative condition.

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