

When it comes to fiction vs reality, it's perception that counts *Davies and John Holland Pty Ltd* [2019] AATA 148

Key Points

- The Tribunal needed to determine whether a psychological condition had been significantly contributed to by employment.
- The Tribunal concluded that even though the psychological condition arose from misapprehensions, there was a sufficient connection to actual events in the workplace for the employee to be entitled to compensation.

Background

In February 2012, Darrin Davies (an employee of John Holland) lost control of a vehicle he was operating and slid some 75 metres down a steep slope before coming to rest on some oxy bottles laying across a railway line. Mr Davies alleged that he was asked to amend his statement regarding the incident to omit and modify certain facts.

In 2014, Mr Davies' employment was terminated, and he subsequently suffered financial difficulties and psychological issues which resulted in stints as an inpatient at various mental health facilities. He submitted a claim for workers' compensation in respect of a psychological condition that was alleged to have been substantially contributed to by his employer's failure take seriously various safety issues he raised with them from 2011 to 2014.

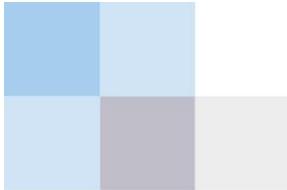
Liability was denied for Mr Davies' claim on the basis that he was delusional and his condition was not contributed to by his employment.

The Law

The Tribunal was required to consider whether Mr Davies' condition, being related to his perception of events, was significantly contributed to by his employment.

Conclusion

Mr Davies and his wife gave evidence that prior to the incident in 2012 he had not suffered from any psychological issues but that the events following the motor vehicle accident, particularly his employer's failure to take action over various safety issues he raised with them between 2011 and 2014, had given rise to a psychological condition.



John Holland presented evidence that Mr Davies was delusional and that the safety issues he had raised with them were either insignificant or had been sufficiently actioned, such that Mr Davies' perception was not based on actual events. The employer also alleged that Mr Davies' prior history of drug use had contributed to the development of a delusional disorder.

Medical evidence was provided by a number of psychological experts who concluded that Mr Davies was not delusional and that his condition had arisen due to his perception of actual events.

The Tribunal accepted this evidence and determined that Mr Davies had suffered a psychological condition that was significantly contributed to by his perception of events which actually occurred in the workplace. Further, even if some of the things that Mr Davies came to believe about his employer involved a misapprehension, the Tribunal determined that there was a sufficient connection between those things and his employment to satisfy the employment connection test.

Lessons Learnt

The Tribunal's decision is a timely reminder that an employee's perception of events, even if partly based on a misapprehension, will be considered to have been significantly contributed to by their employment if those events actually occurred.

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