

AFP officer's injury found to be a result of reasonable administrative action *Snook and Comcare [2022]*

Key Points

- The Tribunal was asked to consider liability for a psychological condition, claimed to have been sustained in the workplace by an Australian Federal Police Officer.
- The Tribunal found that the psychological condition did not meet the definition of Injury as it was suffered as a result of reasonable administrative action, being the actions taken by the employer to address workplace behaviour.
- The Tribunal found in favour of Comcare and the decision under review was affirmed.

Background

Mr Snook was formerly employed by the Australia Federal Police (the **AFP**), as a shift supervisor, based in Exmouth, Western Australia. Mr Snook submitted two claims for workers' compensation dated 9 December 2019, in respect of a psychological condition sustained on 30 June 2019. Comcare treated the two claim forms as one and by determination dated 14 February 2020, Comcare denied liability to pay compensation, pursuant to section 14 of the *Safety, Rehabilitation and Compensation Act 1988* (Cth (the **SRC Act**), on the basis that there was insufficient medical evidence to satisfy the decision maker that Mr Snook had suffered an ailment as defined in section 4 of the SRC Act.

Mr Snook sought reconsideration of the determination and by reviewable decision dated 23 April 2020, Comcare affirmed the determination on the basis that Mr Snook's employment had not significantly contributed to the psychological condition, and that Mr Snook had wilfully made a false representation on his claim form, that he had not previously suffered from a similar psychological condition, pursuant to section 7(7) of the SRC Act.

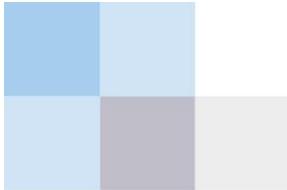
Mr Snook sought further review at the Administrative Appeals Tribunal.

The Law

Section 5A(1) of the SRC Act provides as follows:

"injury" means:

- (a) a disease suffered by an employee; or

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- (b) an injury (other than a disease) suffered by an employee, that is a physical or mental injury arising out of, or in the course of, the employee's employment; or
 - (c) an aggravation of a physical or mental injury (other than a disease) suffered by an employee (whether or not that injury arose out of, or in the course of, the employee's employment), that is an aggravation that arose out of, or in the course of, that employment;

but does not include a disease, injury or aggravation suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee's employment.

Conclusion

Comcare argued that Mr Snook's psychological condition was caused by the following events:

1. an incident on the evening of 23 January 2019 where Mr Snook swore at two AFP Officers, which resulted in Mr Snook being stood down from his position with the AFP on the following day; and
2. not returning to work in June 2019.

Comcare argued that both of the above events were reasonable administrative action, taken in a reasonable manner, in respect of Mr Snook's employment, and liability for the claimed condition was excluded.

The Tribunal was satisfied, on the basis of the opinions provided by Dr Jansen and Dr Edwards-Smith, Psychiatrists, that Mr Snook's claimed condition was suffered as a result of either his being stood down on 24 January 2019 or his not returning to work in June 2019, or a combination of both.

The Tribunal preferred Dr Edwards-Smith's opinion that Mr Snook suffered from a single injury, which he did not recover from, and his symptoms deteriorated in June 2019 when he did not return to work. The Tribunal found that the cause of the psychological condition was being stood down on 23 January 2019. Accordingly, the Tribunal only needed to consider whether this constituted reasonable administrative action. The Tribunal found that it was and that Mr Snook's behaviour towards other staff that day was aggressive and inappropriate. The Tribunal further found that the AFP's action in standing Mr Snook down was administrative action, was reasonable to undertake and was undertaken in a reasonable manner.

The Tribunal further found that even if there was a separate injury arising as a result of Mr Snook's non-return to work in June 2019, this was also captured by the reasonable administrative action exclusion. The Tribunal accepted the evidence of the AFP witnesses in this regard and noted that Mr Snook's attitude around his return to work effectively meant that they were not able to return him to the Exmouth base. The Tribunal stated that while the discussions around Mr Snook's return to work could have been handled differently, it accepted that in the circumstances Mr Snook's return to work was "not unreasonable or unreasonably handled".



Lessons Learnt

This decision highlights the importance of keeping detailed contemporaneous notes and records in circumstances where there are issues with an employee's behaviour in the workplace, and the steps taken to address it. While the steps taken by the employer do not need to be perfect, this evidence can show that actions taken by employers were reasonable and necessary management actions in the circumstances.

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