

CASE NO.

VOL. NO.

PAGE

ELI MACKAY

- and - WORKERS' COMPENSATION APPEALS
TRIBUNAL OF NOVA SCOTIA,
WORKERS' COMPENSATION BOARD
OF NOVA SCOTIA, and JIM MORRISON
CONTRACTING LIMITED

(Appellant)

(Respondent)

CA 162579

Halifax, N.S.

CROMWELL, J.A.

Cite as: MacKay v. Nova Scotia (Workers' Compensation Appeals Tribunal), 2001 NSCA 67

APPEAL HEARD: April 11, 2001

JUDGMENT DELIVERED: April 20, 2001

SUBJECT: **Workers' Compensation — Permanent Medical Impairment Rating - Chronic Pain**

SUMMARY: The worker received a 10.5% PMI rating which he sought to have increased on appeal to WCAT. The Tribunal raised the question of whether he had chronic pain and invited submissions on that point. It subsequently dismissed the appeal, deciding that the worker had chronic pain which was not compensable under the **Workers' Compensation Act**.

ISSUES:

1. Did WCAT err in raising and addressing the chronic pain issue?
2. Did WCAT err in failing to decide the question of whether the 10.5% PMI rating was adequate?

RESULT: Appeal allowed and matter remitted. WCAT did not err in raising the chronic pain issue. However, WCAT's conclusion that the worker suffers from chronic pain does not address the issue of whether the 10.5% PMI rating adequately reflects the compensable aspect of his permanent medical impairment. The Tribunal committed reversible error in failing to address this issue.

<p>This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 5 pages.</p>
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