

NOVA SCOTIA COURT OF APPEAL

Citation: Cohen v. Nova Scotia (Worker's Compensation Board), 2007 NSCA 118

Date: 20071207

Docket: CA 280926

Registry: Halifax

In the matter of: A stated case pursuant to s. 206 of the *Workers' Compensation Act* by the Workers' Compensation Appeals Tribunal to the Nova Scotia Court of Appeal in relation to WCAT Appeal 2007-22

- and -

In the matter of: WCAT Appeal # 2007-22

Between:

Philip Cohen

Appellant

v.

Workers' Compensation Board of Nova Scotia and Attorney General of Nova Scotia and Sydney Steel Corporation and Alliance of Manufacturers & Exporters, Canada, c.o.b. as Canadian Manufacturers Association, Nova Scotia Division and Pictou County Injured Workers' Association

Respondents

Judge: The Honourable Justice Fichaud

Appeal Heard: November 22, 2007 in Halifax, Nova Scotia

Subject: Workers' Compensation - chronic pain

Summary: The Workers' Compensation Appeals Tribunal stated a case for the opinion of the Court of Appeal. The questions related to the interpretation of Regulation 4 and Policy 3.3.5 section 12 under the *Workers' Compensation Act*.

Issue: The stated case asked the Court of Appeal whether the Policy, requiring that the worker "developed" chronic pain on or after April 17, 1985 to be entitled to an assessment, was consistent with Regulation 4, requiring that the worker "had" chronic pain on or after April 17, 1985. The stated case asked whether Mr. Cohen was barred because he developed chronic pain before April 17, 1985.

Result: The court answered both questions “no”. A worker can have chronic pain on or after April 17, 1985 despite that he “developed” it before that date. The Policy was inconsistent with Regulation 4. The Regulation governs and Mr. Cohen was not barred from entitlement to an assessment.

This information sheet does not form part of the court’s judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 14 pages.