

NOVA SCOTIA COURT OF APPEAL

Citation: *Bishop v. Nova Scotia (Workers' Compensation Appeals Tribunal)*,
2012 NSCA 95

Date: 20120907

Docket: CA 338678

Registry: Halifax

Between:

Frederick Bishop

Appellant

v.

Nova Scotia Workers' Compensation Appeals
Tribunal and the Workers' Compensation Board
of Nova Scotia and Enterprise Cape Breton
Corporation

Respondents

Revised Library Sheet: The docket number has been changed from CA 338687 to 338678 on September 10, 2012. This library sheet replaces the previously released library sheet.

Judge: The Honourable Justice Hamilton

Appeal Heard: June 14, 2012

Subject: Workers Compensation, Board Policy 1.3.6, Gradual Onset Stress

Summary: The appellant, a former coal miner, appealed WCAT's decision denying him compensation for gradual onset stress. WCAT found the stressors he experienced in the Phalen Colliery were not "unusual and excessive" "in comparison to the work-related events or stressors experienced by an average worker" at the face of an underground coal mine. In making this comparison, WCAT compared the stressors the appellant experienced in Phalen to those experienced in underground coal mines in the

United States and worldwide, except in developing countries.

Issue: Did WCAT err in law by choosing the wrong comparator group, causing it to wrongly deny compensation to Mr. Bishop?

Result: Appeal dismissed. The lack of similarity between the Phalen Colliery and the other two Canadian underground coal mines, the fact Canadian mines represent such a small part of the global underground coal mining industry and the need for the Employer's mine managers to use expertise from American, English and European mines to develop mine planning best practices for the Phalen Colliery over the years, indicate WCAT's choice of a comparator group including work places outside of Canada was reasonable.

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 12 pages.