

Stebbing v Military Rehabilitation and Compensation Commission [2014] AATA 948 (19 December 2014)

Key Points

- Whether the applicant's severe coronary artery disease and myocardial infarction were contributed to, to a significant degree, by his employment.

Background

Mr Stebbing served in the Royal Australian Navy (**RAN**) from July 1972 to July 1995. On 9 July 2013, Mr Stebbing completed a claim for workers' compensation in respect of "*heart disease*" with a date of injury of 12 September 2012. Mr Stebbing claimed that the condition was sustained through his employment as the conditions he worked in provided him with "*High cholesterol, high blood pressure, lack of regular exercise, high fat diet, high salt intake, low calcium, low potassium, low magnesium and high alcohol consumption*".

On 7 December 2013, a delegate of the Military Rehabilitation and Compensation Commission (**MRCC**) made a determination under the SRC Act disallowing Mr Stebbing's claim for compensation on the basis that he had a poor post-employment record of exercise, diet and alcohol consumption and that pinpointing the causation of such a disease was difficult.

Mr Stebbing sought review of the determination, which was affirmed by reviewable decision dated 20 February 2014.

On 6 March 2014, Mr Stebbing made an Application a Review of the reviewable decision with the Tribunal.

The Tribunal was required to consider whether Mr Stebbing's injury, claimed to have been sustained on 12 September 2012, was a "*disease*" pursuant to section 5B of the SRC Act and was contributed to, to a significant degree by his employment.

The Law

Section 5A (1) of the SRC Act defines "*injury*".

Section 5B(1) relevantly defines "*disease*" to be an ailment or aggravation of an ailment that is suffered by an employee, to which the employee's employment contributed to a significant degree.

Conclusion

The Tribunal placed weight on the extracts of Mr Stebbing's service medical records, a post-employment medical examination of Dr Sembi and Dr Nguyen's reports.

Medical service records were provided by Dr Peters in relation to Mr Stebbing's health while employed by the RAN. It was recorded that during his time of service, Mr Stebbing had normal cholesterol levels, a good appetite, steady weight, and a regular bowel. There was no record of high blood sugar levels or high blood pressure throughout his employment with the RAN.

Following his service time with the RAN, Mr Stebbing underwent a medical examination by Dr Sembi. It was reported that Mr Stebbing's cholesterol levels had risen and he had put on weight since his employment ceased.

Various reports of Dr Nguyen were also submitted as evidence. Dr Nguyen could not definitively state that Mr Stebbing's service with RAN was a causal and direct factor that lead to the disease. Dr Nguyen opined that coronary disease was a very common condition and was "*multifactorial*".

The Tribunal held that Mr Stebbing suffered from a myocardial infarct however, it was only "*merely possible and not probable (that is, likely)*" that his employment with the RAN contributed to a material degree to the development of that condition.

On the balance of probabilities the Tribunal was not satisfied, on the medical evidence before it that Mr Stebbing's employment with the RAN was a contributing factor to his severe coronary artery disease.

Lessons Learnt

The decision affirms that it is necessary for an applicant to provide medical evidence which supports that their heart disease was contributed to, to a significant degree, by their employment.

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