

## *Gordon and Comcare [2012] AATA 578*

### Key Points

- Failure to obtain a posting to Brisbane is Reasonable Administrative Action
- Senior Member McCabe found that a failure to obtain a transfer to Brisbane was reasonable administrative action, taken in a reasonable manner.

### Background

Mr Stuart Gordon submitted a claim for workers' compensation claiming that he suffered a psychological condition as a result of working in the police communications centre in 2008. It was alleged that the condition arose because of a high pressured environment in the absence of training and support from his employer.

Mr Gordon left the Victorian police to join the Australian Federal Police (AFP) in 2004. During the recruitment process, Mr Gordon expressed the desire to obtain a position in Queensland, however he was posted to Canberra. Mr Gordon was transferred to Jervis Bay in 2006 but he returned to the police communications centre in Canberra in February 2008. Mr Gordon says he was not provided with adequate training or support and he became increasingly distressed answering telephone calls. Medical evidence showed that Mr Gordon experienced significant psychological symptoms during 2008 but he resisted anti depressant medication.

In August 2008 the applicant was posted to Tuggeranong and his mental health deteriorated with threats of self harm. Mr Gordon applied for a transfer on compassionate grounds and he was granted a transfer to the Gold Coast in December 2009. Mr Gordon was involved in workplace conflict during this posting and has not returned to work since 2009. Throughout his time with the AFP, Mr Gordon applied for a number of promotions but was unsuccessful.

Senior Member McCabe noted that Mr Gordon was unhappy that he was not posted to Brisbane earlier in his employment with the AFP, that he was unsuccessful in numerous bids for promotions and he was disappointed with what he says was a lack of training and support. The medical evidence showed that Mr Gordon suffered from a psychiatric condition from at least 2008, if not earlier.

### The Law

It was found that the events in Mr Gordon's workplace made a significant contribution to the onset of his psychological condition. Senior Member McCabe found that Mr Gordon's psychological condition was the result of a failure to obtain a posting to Brisbane and Mr Gordon's belief that his

employer had reneged on a promise to do just that. The failure to obtain a posting to Brisbane was characterised as reasonable administrative action and more specifically, *“anything reasonable done in connection with the employee’s failure to obtain a promotion, reclassification, transfer or benefit”*, pursuant to section 5A(2)(f) of the *Safety Rehabilitation and Compensation Act 1988* (Cth). Further, it was found that denying Mr Gordon the transfer to Brisbane was carried out in a reasonable manner, meaning that Mr Gordon was excluded from receiving compensation for his psychological condition.

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