

Wang and Comcare [2012] 242 (27 April 2012)

Key Points

- What Degree of Contribution Required for RAA to Apply?
- This decision of Deputy President Constance of the Administrative Appeals Tribunal, has taken the view that for the exclusionary provision to apply, the reasonable administrative action must have contributed to the onset of a disease, to a significant degree, rather than it just being a contributing factor.

Background

The applicant sought review of a decision dated 6 May 2010 which denied liability to pay compensation in respect of “*adjustment disorder with anxiety and depressed mood*” with a date of injury of 16 March 2009, in accordance with section 14 of the *Safety Rehabilitation and Compensation Act 1988* (Cth) (the **SRC Act**).

Liability was denied as it was determined that the applicant’s condition was suffered as a result of reasonable administrative action, namely the conduct of the applicant’s supervisor, Mr Parker at a meeting with the applicant on 13 March 2009. The discussion on 13 March 2009 concerned the applicant’s performance of her duties as an auditor and changes in her performance required by her employer. Comcare argued that there had been a number of complaints about the applicant’s performance and it was reasonable for her employer to address those complaints.

The Law

Deputy President Constance set aside the decision under review and in substitution found that Comcare was liable to pay compensation to the applicant in respect of her psychological condition.

Reasons:

The discussion on 13 March 2009 concerned the applicant’s performance of her duties as an auditor and changes in her performance required by her employer. There had been a number of complaints about the applicant’s performance and it was reasonable for her employer to address those complaints. Mr Parker’s actions on 13 March 2009 was reasonable administrative action taken in respect of the applicant’s employment (a reasonable counselling action under subsection 5A (2)(b) of the SRC Act).

The meeting on 13 March 2009 was a reasonable counselling action that was taken in a reasonable manner by Mr Parker and was not considered bullying as alleged by the applicant.

The evidence established that a number of events which can be classified as reasonable administrative action, contributed to the applicant’s disease, including the meeting in March 2009.



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However, DP Constance found that the evidence did not establish that any of those events contributed to the applicant's disease, to a significant degree.

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