



Quiz

Statutory Construction in Workers' Compensation Claims

1. In accordance with Section 5A of the *Safety Rehabilitation and Compensation Act 1988* (Cth), why did Comcare reject Mr Drinkwater's compensation claim?
 - a. They found his psychological illness was not the result of reasonable administrative action;
 - b. They found his psychological illness did not arise out of or in the course of his employment;
 - c. They found his psychological illness was the result of reasonable administrative action taken in respect of his employment;
 - d. They found his psychological illness was only partly caused by reasonable administrative action.
2. Why was the Federal Court constituted by a Full Court in this case?
 - a. The Tribunal was constituted by a Presidential member who is a Judge and therefore the appeal automatically had to go to a Full Court;
 - b. The Chief Justice of the Federal Court and the President of the Tribunal jointly decided that the matter should be heard by a Full Court;
 - c. The appeal concerned a question of law, not of fact;
 - d. The Full Federal Court presides over all appeals from the Administrative Appeals Tribunal.

3. Which of the following was not a finding of the Federal Court?
 - a. The decision to transfer Mr Drinkwater from one position to another was administrative action in respect of his employment;
 - b. The Tribunal conflated two administrative actions into one;
 - c. The mobility policy itself amounted to an administrative action taken in respect of Mr Drinkwater's employment;
 - d. The Tribunal made an error in law by misconstruing the phrase 'in respect of the employee's employment.'

4. Why was the matter not remitted back to the Tribunal for reconsideration?
 - a. There was only one outcome that could occur based on a correct interpretation and application of 'in respect of an employee's employment';
 - b. The Tribunal was found to have made an error of law and therefore the matter could not have been reconsidered by the Tribunal;
 - c. S44 of the *Administrative Appeals Tribunal Act 1975* (Cth) prohibits a matter to be remitted back to the Tribunal once it has been appealed to the Federal Court;
 - d. All of the above.

5. Which of the following can Practitioners take away from the case?
 - a. Administrative action can be taken in respect of a particular employee's employment even if it involves the application of a general policy that is applicable to more than one employee;
 - b. The provisions in Section 5A of the *Safety Rehabilitation and Compensation Act 1988* (Cth) do not apply at all when administrative action is taken pursuant to a general policy applicable to all employees;
 - c. The provisions in Section 5A of the *Safety Rehabilitation and Compensation Act 1988* (Cth) do not apply when the administrative action is directed specifically to an employee;
 - d. A general policy that is applicable to more than one employee will always constitute administrative action take in respect of a particular employee's employment.

Answers:

1. C 2. B 3. C 4. A 5. A