



**Form 9A - Appellant's Statement of Facts and Contentions
Psychiatric and/or Psychological Injuries**

Version 1

Appellant: **SHARON SMITH**

AND
Respondent: **WORKERS' COMPENSATION REGULATOR**

Nature of Appeal

1. The Decision subject of this Appeal is the Review Decision of Workers' Compensation Regulator (the Regulator) dated 5 March 2015. In that Decision, the Regulator confirmed the original decision of WorkCover Queensland to reject the Appellant's application for compensation in respect of a claimed chronic adjustment disorder with anxiety and depressed mood injury said to have developed during the course of the Appellant's employment with ElectroSharp Pty Ltd (Employer) between October 2012 and February 2015.

Background

2. The Appellant was employed with the Employer in Toowoomba between October 2012 and February 2015.
3. Since commencement with the Employer, the Appellant felt that there was a great deal of tension between staff members who were rude and abrupt with her.
4. During the period of employment with the Employer, the Appellant was involved in numerous events that she believed have caused her injury. These events include the following:
 - a. The Appellant had been excluded from work and social events that the Employer organised for staff members [*each of the occasions should be itemised*];
 - b. The Appellant was singled-out in being asked to work late and on weekends and public holidays when other staff members were not [*each of the occasions should be itemised*];

Appellant's Statement of Facts and Contentions	Name:
Filed on Behalf of the Appellant	Address:
Form 9A	Phone No:
	Fax No:
	E-mail address:

- c. Whilst the Appellant was employed as a marketing specialist, she was often asked to perform tasks that are not related to her position, such as, cleaning the office, doing other staff members' filing, and performing tasks that required a higher level of skills than hers [*each of the occasions should be identified*].
5. On 10 October 2014, the Appellant expressed her concerns to her immediate manager, Mr John Black, who said to her that he will attempt to improve her work environment.
6. On 16 October 2014, Mr Black called a team meeting. During this meeting, Mr Black mentioned that he had some complaints from a certain staff member that she feels "left out" when other staff members go out to lunch or to after-work gatherings. He also said, "I do not need to say who it is, but you all know who I mean, because that person is a chronic whinger!". After Mr Black said that, a few staff members looked at the Appellant and whispered to each other.
7. The Appellant felt humiliated during the team meeting, as she felt Mr Black had identified her, even though he didn't mention her name. She also felt humiliated because he called her a chronic whinger and because other staff members looked at her and started whispering to each other.
8. After the meeting, the Appellant requested a private meeting with Mr Black, who then yelled at her saying that he "does not have time to deal with her stupid complaints all the time".
9. The Appellant became very distressed after the events on 16 October 2014 and escalated a complaint about Mr Black's conduct to his manager, Ms Jenny Diamond.
10. The Appellant continued to feel unwell following the staff meeting and, on 17 October 2014, the Appellant sought medical treatment from Get Healthy Medical Centre, where she was referred to Mr David Phillips, Psychologist.
11. The Appellant took 2 weeks off work. However, upon her return she continued to have similar symptoms and continued to attend counselling sessions with the Psychologist.
12. On 5 November 2014, the Appellant was called to a meeting with Ms Diamond where she was informed that the Appellant's complaint against Mr Black was unsubstantiated. Although she requested a written outcome of the investigation, Ms Diamond told the Appellant that nothing in writing would be given to her.
13. On 10 November 2014, the Appellant was called to a meeting with both Mr Black and Ms Diamond. That meeting was called without notice and she was not allowed to have a support person with her in the meeting. The Appellant was told that the meeting was called to discuss the Appellant's complaint against Mr Black because the Appellant felt that the issue was not resolved satisfactorily.
14. The Appellant was told at the meeting that she "should stop making stupid complaints against her manager" and that she should "take it or leave it".
15. During the next couple of months, the Appellant continued to work with both Mr Black and Ms Diamond who made her feel uncomfortable when speaking with them.
16. Recently, the Appellant's condition has deteriorated. She resigned on 16 February 2015.
17. The Appellant was prescribed antidepressants in November 2014 and continues to take them as she is still unable to find a new job.

Contentions

18. The Appellant contends she is a worker within the meaning of section 11 of the *Workers' Compensation and Rehabilitation Act 2003* (Act).
19. The Appellant contends that the claimed injury initially arose in October 2014. The Appellant relies on the medical opinion of Dr Phillips in this regard.
20. The Appellant contends that her injury arose on 17 October 2014 when she first consulted her doctor for psychological problems.
21. The Appellant contends that the interpersonal interactions with staff members during the period, shortly after commencing work with the Employer until February 2015, are the cause of the Appellant's condition.
22. The Appellant therefore contends that she sustained an injury within the meaning of section 32 of the Act.
23. The Appellant also contends that the meetings between the Appellant and her managers which took place in order to discuss the Appellant's complaints against Mr Black, were a direct cause of the Appellant's condition.
24. Therefore, the Appellant contends that the psychiatric injury she suffers arose out of or in the course of her employment and that the employment was a major significant contributing factor to the psychiatric injury.
25. The Appellant also contends that the meetings on 5 and 10 November 2014 were not reasonable, nor were they taken in a reasonable manner.
26. In addition, the Appellant contends that attending a meeting on 10 November 2014 with both Mr Black and Ms Diamond was unreasonable especially given that the Appellant was denied the option of having a support person attend with her. Having Mr Black attend the meeting in person was also viewed by the Appellant as intimidating.
27. The Appellant contends that the aim behind the meeting on 10 November 2014 was to intimidate her and force her to withdraw any complaints that she had made against Mr Black. Using the words "take it or leave it" is viewed as inappropriate because it was seen by the Appellant as an attempt to force her to work with Mr Black. The only alternative that the Appellant had was to leave the employ of the Employer.
28. It is also contended the internal investigation of the Appellant's complaints against Mr Black was flawed, as Ms Diamond conducted it herself and she refused to provide to the Appellant a written outcome of the investigation.
29. Accordingly, it is contended that the meetings, if construed as management action, were not reasonable, nor were they taken in a reasonable way.

Decision Sought

30. That the review decision dated 5 March 2015 be set aside.

31. That the Appellant has sustained an injury within the meaning of section 32 of the Act, being adjustment disorder with anxiety mood with date of injury being 17 October 2014.
32. That the Respondent pay to the Appellant the costs of, and incidental to, the Appeal.

Filed by:

Party/lawyer/agent:

Street address:

Post Address:

Telephone: () Other:

Fax ()

E-mail address:

Signed: _____
(party or the party's solicitor)

Description: *(of signatory eg. applicant, appellant, respondent, solicitor)*

Dated: *(insert date)*