



Form 9C - Respondent's Statement of Facts and Contentions

Version 1

Appellant: **SHARON SMITH**

AND

Respondent: **WORKERS' COMPENSATION REGULATOR**

Facts

1. The Workers' Compensation Regulator (Regulator) admits the matters alleged in paragraphs 1, 2, 5, and 12 in the Appellant's Statement of Facts and Contentions (Statement).
2. The Regulator does not admit the matters alleged at paragraph 3 of the Appellant's Statement as these are subjective matters known only by the Appellant and outside the knowledge of the Regulator.
3. In relation to the matters alleged in paragraph 4 of the Appellant's Statement, the Regulator denies that this statement provides an accurate history of the events which preceded the Appellant's claim for compensation. The Regulator will rely on the evidence of Mr John Black, Ms Jenny Diamond, Ms Kate Booth and Mr James Dunn, the Appellant's work colleagues, which the Regulator asserts set out the accurate chronology leading up to the Appellant's claim for compensation. This is summarised as follows:
 - a. Mr Black will provide evidence that the Appellant was not excluded from work and social events organised by the ElectroSharp Pty Ltd (Employer) as any invites to functions were sent to all staff members by way of email, and the Appellant was always included in those emails.
 - b. Mr Black will also say that whilst the Appellant was occasionally requested to work late, on weekends and on public holidays, she was not the only employee required to do so and often other staff members were asked to do the same. The allocation of work was performed on a rotational basis to ensure that work was spread out evenly between staff members.

Respondent's Statement of Facts and Contentions	Name: Workers' Compensation Regulator
Filed on Behalf of the Appellant	Address: 347 Ann Street, Brisbane, QLD 4000
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- c. Mr Black will also say that given the small size of the Employer, all staff members share the load when possible and some may be required to perform a variety of tasks, such as cleaning the office and helping out with filing. The Appellant was not the only staff member who was requested to perform those tasks.
 - d. Ms Booth and Mr Dunn will also say that all staff members share the workload and perform a variety of tasks and would often be requested to perform work on the weekend/s and/or on public holidays.
4. In relation to paragraph 6 of the Appellant's Statement, the Regulator admits that Mr Black called a team meeting on 10 October 2014. However, the Regulator denies the allegation that Mr Black used the words "I do not need to say who it is, but you all know who I mean, because that person is a chronic whinger" during that meeting and/or during any interaction with staff members.
 5. The Regulator does not admit the matters alleged in paragraph 7 of the Appellant's Statement as they are subjective matters described from the Appellant's perspective.
 6. In relation to paragraph 8 of the Appellant's Statement, the Regulator admits the matters that the Appellant requested a private meeting with Mr Black, however, the Regulator denies that Mr Black yelled at the Appellant and said words to the effect that he does "not have time to deal with her stupid complaints all the time". Mr Black's evidence will be that the Appellant approached him while working on an urgent task and asked her to wait until he had time to deal with her complaint. He said that he does "not have time to deal with her complaint at this time".
 7. In relation to paragraph 9 of the Appellant's Statement, the Regulator admits that, on 16 October 2014, the Appellant escalated a complaint against Mr Black to Ms Diamond. The Regulator, however, does not admit that the Appellant became "very distressed" after the meeting with Mr Black on 16 October 2015.
 8. The Regulator does not admit the matters alleged in paragraph 10 of the Appellant's Statement.
 9. In relation to the matters alleged in paragraph 11 of the Appellant's Statement, the Regulator admits that the Appellant took 2 weeks off work, however it denies the remainder of the paragraph.
 10. In relation to the matters alleged in paragraph 13 of the Appellant's Statement, the Regulator admits that a meeting was called between the Appellant, Mr Black and Ms Diamond on 10 November 2014. The Regulator, however, denies that the Appellant was not allowed to have a support person present with her at the meeting. The Regulator contends that the Appellant did not request to have a support person to be present with her at the meeting. In addition, the meeting was not aimed at reprimanding the Appellant and/or intimidating her. It was a genuine attempt by Ms Diamond to resolve the Appellant's complaint against Mr Black.
 11. The Regulator denies the matters alleged in paragraph 14 of the Appellant's Statement. Both Mr Black and Ms Diamond's evidence will be that the Appellant's representation of what occurred during the meeting on 10 November 2014 is not accurate.
 12. In relation to the matters alleged in paragraph 15 of the Appellant's Statement, the Regulator admits that the Appellant continued to work with both Mr Black and Ms Diamond, however, the Regulator denies that Mr Black or Ms Diamond made her feel uncomfortable when speaking to them. This allegation is merely a subjective matter that is told from the Appellant's perspective.

13. In relation to the matters alleged in paragraph 16 of the Appellant's Statement, the Regulator admits that the Appellant left the employment on 16 February 2015. However, the Regulator denies the allegation that the Appellant continued to feel unwell and that this occurred due to a compensable injury.
14. In relation to the matters alleged in paragraph 17 of the Appellant's Statement, the Regulator acknowledges that as it is stated in the medical records of the Get Healthy Medical centre, the Appellant was prescribed antidepressants and that she continues to take them. The Regulator, however, denies that the antidepressants were prescribed for the Appellant in order to deal with a compensable injury. The Regulator will rely on the evidence of Dr John Holmes to support its contention that the Appellant has a pre-existing condition that arose as a result of personal issues that the Appellant has been going through.

Contentions

15. Based on the report from Dr Holmes, the Appellant's condition is described as chronic adjustment disorder with anxiety and depressed mood.
16. Based on the report from Dr Holmes, the date of onset of the Appellant's condition is a pre-existing condition that the Appellant has suffered due to personal issues.
17. The Regulator contends that the employment of the Appellant with ElectroSharp Pty Ltd was not a major contributing factor to the psychological/psychiatric condition that the Appellant sustained.
18. If the Queensland Industrial Relations Commission finds that the Appellant's employment with ElectroSharp Pty Ltd was a major contributing factor to the psychological/psychiatric condition, which is denied, the Regulator contends that the injury arose as a result of reasonable management action taken in a reasonable way, namely:
 - a. The meeting between the Appellant and Ms Diamond on 5 November 2015; and
 - b. The meeting between the Appellant, Ms Diamond and Mr Black on 10 November 2014;
19. On this basis, the Regulator contends that by the operation of section 32(5)(a), the Appellant's injury is not one for compensation as defined in section 32(1).

Decision Sought

20. That the review decision dated 5 March 2015 be confirmed.
21. That the Appellant pay to the Regulator the costs of, an incidental to, the Appeal.

Signed: John Smith
(the person signing the Statement)

Description: Appeals Officer

Dated: 1 September 2015