

Case law update – February 2021

The SA Employment Tribunal has been busy in the early months of 2021. Here are some of the decisions of interest:

[*Stratton v Department for Education \[2021\] SAET 5*](#) – psychiatric injury claim. The worker was assessed as 27% WPI under GEPIC. SAET held that the assessment lacked sufficient detail to satisfy the statutory WPI assessment requirements. Assessment referred to an IMA.

[*WorkCover Corporation of South Australia v Gregor \[2020\] SAET 247*](#) – complex regional pain syndrome caused by a compensable shoulder injury was held by the SAET to be a separate injury.

[*Oakley \(RTWSA\) v Mumford \[2020\] SAET 248*](#) – the worker was convicted of misrepresenting incapacity for work and was ordered to pay \$18,500 costs plus Victims of Crime levy and court costs. He was also placed on a 2-year good behaviour bond.

[*Power v RTWSA \[2020\] SAET 252*](#) – the worker was injured in a fall in a bathroom at a work-related awards night. The injuries were held to be not compensable by the SAET Full Bench.

[*Lane v RTWSA \[2020\] SAET 253*](#) – the worker suffers from cystic fibrosis (CF). A compensable fracture of a foot generated an enforced period of inactivity. The period of inactivity was held to have aggravated the CF and brought forward the need for a lung transplant. This in turn led to the costs of the transplant and related treatment being held to be compensable. The worker resigned while totally incapacitated, which the SAET held to not be a breach of mutuality.

[*Martyn Campbell v Lightforce Asset Pty Ltd trading as Erections \(WA\) and Civil and Allied Technical Construction Pty Ltd \[2021\] SAET 9*](#) – the worker was part of a wet lease of a pile driver at the Bungala Solar Project at Port Augusta. The pile driver was legally modified to drive longer piles but the piles provided on site were still too long. The worker and an offsider made on-site modifications that caused the hammer to jam at the top of its travel. The worker was killed while freeing the hammer. The first defendant was fined \$500,000 before a discount of 40%; the second defendant was fined \$750,000 before a discount of 40%. No order for compensation was made.

[*Ibrahim v Department for Education \[2021\] SAET 15*](#) – an application for suitable employment under section 18(3) of the RTW Act was refused by the SAET as the worker no longer incapacitated for work.