

SHORT SHOTS

***Blaga Popovska v Wollongong UniCentre Limited* [2017] NSWCC 83 (11 April 2017)**

The worker brought a claim alleging that she suffered psychological injury as a result of the nature and conditions of her employment 'involving exposure to a highly stressful workplace which included unreasonable criticism, bullying and marginalisation' by her co-workers and managers'.

There was no dispute on the medical evidence that the worker suffered a psychological condition, however, she had not made any complaint to her employer prior to ceasing work.

The arbitrator reviewed the worker's medical records that included a previous diagnosis of anxiety and depression, a work related ankle injury as well as symptoms related to social issues and worrying about her daughter. There were also some references to 'trouble at work' and bullying by co-workers with a statement that her manager was to confront the perpetrators. There were other references to anxiety and depression as components of a list of medical problems with causes other than work. The worker was diagnosed with breast cancer in 2015 for which she was required to undergo treatment including psychological counselling with no record of complaint until 20 April 2016 when she ceased work describing 'false allegations'.

The worker had been informed of a work performance meeting to take place on 8 March 2016 regarding an incident where she had grabbed a child by the wrist and her attendance and daily work tasks that had not been satisfactorily met. The worker was then absent on sick leave for a week. Following her return, the meeting was arranged again for 28 April to discuss 'a range of work performance issues'. The worker met with a director of the childcare centre on 20 April 2016 to discuss an incident when two children had wandered away and were unsupervised for a period.

The arbitrator reviewed the statements of a number of co-workers and medical reports before concluding that while events at work were a contributing factor in the causation of the worker's psychological condition, he did not accept that they were the main contributing factor having regard to the long history of treatment with medication for depression and anxiety which was not attributed to work and a number of inter-current medical conditions which the contemporaneous notes and reports indicate contributed to her psychological condition.

***Bailey v The Workers Compensation Nominal Insurer* [2017] NSWDC 57 (22 March 2017)**

The plaintiff (worker) alleged that he suffered psychiatric injury due to workplace bullying including an incident of abuse by a supervisor (Ms Galvin). The court did not accept the worker's version of his prior work history or the event in question. The plaintiff's claim was ultimately rejected by the court finding that 'the evidence for the plaintiff, at its highest, is angry arguments at work, where the plaintiff's own conduct (such as smoking in the workplace and not taking his medication) is part of the problem. This was a busy workplace where there was little time for niceties. Ms Galvin's impatient and abrasive manner expressed itself in words, as the plaintiff's account of the 7 October event and the few other events about which he gave evidence demonstrate. However, this evidence falls far short of amounting to evidence of sustained bullying in the workplace of the kind the Court of Appeal considered necessary to establish in *Nationwide News Pty Ltd v Naidu*'.