

Workers' Compensation Act - Prohibits Legal Proceedings Against Employers Covered by the Act

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A recent decision by the Alberta Court of Appeal has clarified that all claims arising out of an injury or illness that occur during the course of employment must be pursued through the *Workers' Compensation Act* (the "Act"). The Act provides for compensation payments to qualified employees who suffer injuries or illness during the course of employment, and prohibits legal proceedings against employers covered by the Act.

In *Rachel v. Prospec Chemicals Ltd.*, the Court of Appeal was asked to determine if a claim arising from Mr. Rachel's employment at a chemical plant owned by Prospec Chemical ("Prospec") could go ahead. Mr. Rachel suffered a host of mental and physical illnesses that he claimed arose from his employment in a toxic environment, and that Prospec had failed in their duty to warn him of the dangers.

Mr. Rachel applied to the Workers' Compensation Board (the "Board") to determine if some portion of his claim from injuries sustained while working for Prospec fell outside of the Act. The Act, under section 18, generally provides that any accident or injury that occurs to an employee while the employee is working, is covered by the Act, and the employee cannot sue his employer as a result. Mr. Rachel challenged the Board's exclusive jurisdiction to deal with his injury claims, and argued that he should be allowed to sue his employer for certain portions of his claim.

The Board determined that all of the injuries suffered by Mr. Rachel fell under the Act, and that he was barred by section 18 from suing Prospec. He applied to the Court for a review of the Board's decision and an order that would allow him to pursue portions of his claim through the courts. Mr. Rachel claimed for \$200,000.00 arising from Prospec's duty to warn him of dangers that led to his injuries before he accepted the employment. He claimed \$1,000,000.00 for aggravated damages for the same breach of the duty to warn. He also claimed for the injuries sustained while employed by Prospec, and the emotional instability that arose as a result of the injuries.

On review, the judge determined that the \$1,000,000.00 portion of Mr. Rachel's claim dealing with Prospec's duty to warn, and the claim for emotional instability were separate from the employment relationship. He determined that they could be the subject of a separate claim, and he allowed those portions to proceed.

Prospec appealed this decision. The Court of Appeal determined that all of Mr. Rachel's claims were work-related, and the claims for aggravated damages and emotional instability could not be stand-alone claims. These claims were directly related to the injuries sustained by Mr. Rachel while employed by Prospec, and therefore, they all fell under the Act.

What does this decision mean for employers and employees? In Alberta at

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least, for employers and employees covered by the *Workers Compensation Act*, it appears that all claims that arise as a result of injuries that are related to employment, will fall under the *Act*. If you find yourself facing a similar situation, you may wish to seek professional legal advice.

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