MENTAL HEALTH AND AUTONOMY IN THE WORKPLACE

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The Queensland Supreme Court considers the adequacy of systems in place for supporting the mental health of front-line responders.

IN ISSUE

- Whether an employer should require workers with suspected mental health issues to undergo interventions such as counselling.

THE BACKGROUND

The plaintiff was employed as a paramedic with the Queensland Ambulance Service (QAS) at Doomadgee. Between 30 September and 13 November 2004 he was involved in a number of traumatic incidents following which his psychological state declined. The incidents were:

1. 30 September 2004, attending a teenage boy who had been mauled by dogs and who subsequently died from his injuries;
2. 16 October 2004, transporting a three year old girl who had been assaulted;
3. 10 November 2004, reacting badly to being publicly corrected during training for auscultating the wrong part of an artificial dummy;
4. 13 November 2004, attending a six year old girl who had been sexually assaulted.

He ceased working for the QAS on 23 November 2004 and did not resume employment until over a decade later.

QAS had a system for supporting the mental well-being of its staff, called "Priority One". It involved four core support services; peer support, self-referral counselling, a telephone counselling service and critical incident stress debriefing for groups.

It was relevant to the trial that a worker's involvement with the Priority One service was voluntary, and not mandatory. Mandatory intervention had been trialled and was found to be unhelpful.

The issue at trial was the adequacy and implementation of the employer's system.

The Decision at Trial

The plaintiff's claim was dismissed.

The trial judge, Justice Henry, found the plaintiff's case had failed to acknowledge that the support provided by the employer was a reasonable response to the risk of injury from exposure to such events while at the same time respecting his autonomy.

IMPLICATIONS FOR YOU

The case follows the decision of *Hegarty v QAS* [2007] QCA 366 and so does not change the law. It is not for an employer to impose interventions upon workers they suspect of suffering from mental health issues.

The case does highlight difficulties in proceeding to trial so long after events occurred.

From an employer's perspective it distinguishes between psychiatric and physical injury. Unlike the case of physical risks, consideration of values of human dignity, autonomy and privacy were relevant to an employer's decision to intervene in the case of apprehended psychiatric injury.

No such considerations were relevant in the management of apprehended physical injury.

James v State of Queensland [2018] QSC 188

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