QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION:	*Rooke v Workers' Compensation Regulator* [2024] QIRC 089
PARTIES:	**Rooke, Leonard John** (Appellant) v **Workers' Compensation Regulator** (Respondent)
CASE NO:	WC/2021/112
PROCEEDING:	Appeal against decision of Workers' Compensation Regulator
DELIVERED ON:	22 April 2024
HEARING DATES:	22 and 23 November 2022
MEMBER:	O'Connor VP
HEARD AT:	Cairns

ORDER:

Pursuant to s 558(1)(a) of the *Workers' Compensation and Rehabilitation Act* 2003, the decision of the Respondent, dated 11 June 2021, is confirmed.

Pursuant to r 41(1) of the Industrial Relations (Tribunals) Rules 2011:

(a) the parties are to exchange and file written submissions on the costs of the hearing (of no more than two (2) pages, 12-point font size, line and a-half spacing with numbered paragraphs and pages) by 4.00 pm on Monday 13 May 2024; and

(b) unless otherwise ordered, the decision on costs be determined on the papers.

CATCHWORDS: WORKERS' COMPENSATION - ENTITLEMENT TO COMPENSATION - where appellant was employed as a fire fighter for Queensland Fire and Rescue Service - where appellant was fighting a fire in a residential unit whilst wearing a breathing apparatus including an oxygen cylinder attached to his back - where appellant stood on a ladder that slipped out from under him - where appellant fell from the ladder and landed on to a vanity unit - where appellant then fell to the floor - whether appellant suffered permanent impairment for injuries to the neck and/or shoulder and a psychological injury pursuant to s 132A of the *Workers' Compensation and Rehabilitation Act* 2003 - whether the injuries arose out of or in the course of his employment - whether employment was a significant contributing factor to his injuries - whether appellant suffered an injury within the meaning of s 32 of the *Workers' Compensation and Rehabilitation Act* 2003

LEGISLATION: *Workers' Compensation and Rehabilitation Act* 2003, s 32, s 132A

APPEARANCES: Mr C.J. Ryall, Counsel instructed by FNQ Legal for the Appellant.

Ms L. Willson, Counsel directly instructed by the Workers' Compensation Regulator.

Reasons for Decision

Introduction

[1] Mr Leonard Rooke ('the Appellant') was employed as a Fire Fighter by the Queensland Fire and Emergency Service ('QFES'). On 14 September 2017 the Appellant in the course of his employment was fighting a fire in a residential unit when he fell from a ladder that slipped out from under him ('the incident').

[2] It is not disputed that the Appellant's application for compensation for a lower back and an upper torso injury arising out of the incident on 14 September 2017 was accepted.

[3] On 2 September 2020, the Appellant lodged a s 132A application for assessment of permanent impairment ('application') with WorkCover Queensland for various injuries he alleged he sustained as a result of an incident at work on 14 September 2017.

[4] By review decision of 11 June 2021, the Workers' Compensation Regulator ('the Respondent') confirmed the decision of WorkCover to reject the Appellant's assessment for permanent impairment for injuries to the neck and shoulders, and a psychological injury, in accordance with s 132A of the *Workers' Compensation and Rehabilitation Act* 2003 ('the WCR Act')[1].

[5] On 28 July 2021 the Appellant appealed that decision to the Queensland Industrial Relations Commission ('the QIRC').

[6] The Appellant contends that the neck and bilateral shoulder physical injuries arose out of the incident. Therefore, his employment was a significant contributing factor to those injuries and each of the physical injuries was an injury within the meaning of s 32 of the WCR Act.[2]

[7] The Respondent does not admit that the injuries arose out of the incident.[3]

[8] The Regulator contends that there is no contemporaneous factual or medical evidence to support the Appellant's claim that he suffered an injury to his neck and shoulders arising out of the work incident on 14 September 2017 as he alleges.[4]

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[1] Section 132A of the *Workers' Compensation and Rehabilitation Act 2003* - Applying for assessment of DPI if no application made for compensation. ***DPI***, for an injury of a worker, means an estimate, expressed as a percentage, of the degree of the worker's permanent impairment assessed and decided in accordance with the Guidelines for the Evaluation of Permanent Impairment made under section 183.
[2] Appellant's statement of facts and contentions filed 6 October 2021.
[3] Respondent's statement of facts and contentions filed 6 October 2021, [5](c), [5](d).
[4] Respondent's statement of facts and contentions filed 6 October 2021, [8].

[9] It is further contended by the Respondent that the Appellant has not sustained an injury in accordance with the provisions of the WCR Act because:

- the Respondent does not admit that the Appellant has sustained a personal injury/ies;
- should the Commission find that the Appellant has sustained a personal injury/ies (which is not admitted), the personal injury/ies has not arisen out of, or in the course of, his employment with the employer; and/or
- the Appellant's employment is not the significant contributing factor to his injury/ies.[5]

[10] Having regard to the state of the evidence before the Commission, the Appellant abandoned the claim for a psychological injury. [6]

[11] It is not in contention that the Appellant was a worker within the meaning of s 11 of the WCR Act at the time of the incident.

Legislation

[12] Section 32 of the WCR Act provides:

> **32 Meaning of *injury***
>
> (1) An ***injury*** is personal injury arising out of, or in the course of, employment if the employment is a significant contributing factor to the injury.
>
> (2) However, employment need not be a contributing factor to the injury if section 34(2) or 35(2) applies.
>
> (3) ***Injury*** includes the following -
>
> (a) a disease contracted in the course of employment, whether at or away from the place of employment, if the employment is a significant contributing factor to the disease;
>
> (b) an aggravation of the following, if the aggravation arises out of, or in the course of, employment and the employment is a significant contributing factor to the aggravation -
>
> (i) a personal injury;
>
> (ii) a disease;
>
> (iii) a medical condition, if the condition becomes a personal injury or disease because of the aggravation;
>
> (c) loss of hearing resulting in industrial deafness if the employment is a significant contributing factor to causing the loss of hearing;
>
> (d) death from injury arising out of, or in the course of, employment if the employment is a significant contributing factor to causing the injury;
>
> (e) death from a disease mentioned in paragraph (a), if the employment is a significant contributing factor to the disease;
>
> (f) death from an aggravation mentioned in paragraph (b), if the employment is a significant contributing factor to the aggravation.

[5] Respondent's statement of facts and contentions filed 6 October 2021, [10].
[6] Appellant's submissions filed on 30 January 2023, [49].

(4) For subsection (3)(b), to remove any doubt, it is declared that an aggravation mentioned in the provision is an injury only to the extent of the effects of the aggravation.

(5) Despite subsections (1) and (3), ***injury*** does not include a psychiatric or psychological disorder arising out of, or in the course of, any of the following circumstances -

(a) reasonable management action taken in a reasonable way by the employer in connection with the worker's employment;

(b) the worker's expectation or perception of reasonable management action being taken against the worker;

(c) action by the Regulator or an insurer in connection with the worker's application for compensation.

[13] Section 132A of the WCR Act provides as follows:

132A Applying for assessment of DPI if no application made for compensation

(1) This section applies to a worker who has not made an application under section 132.

(1A) However, this section does not apply to a worker who is, or may be, entitled to compensation under chapter 4A.

(2) The worker may apply to the insurer to have the worker's injury assessed under section 179 to decide if the worker's injury has resulted in a DPI.

(3) An application under subsection (2) must be -

(a) lodged with the insurer; and

(b) in the approved form; and

(c) accompanied by -

(i) a certificate in the approved form given by a doctor who attended the worker; and

(ii) any other evidence or particulars prescribed under a regulation.

(4) A registered dentist may issue the certificate mentioned in subsection (3)(c)(i) for an oral injury.

(5) If the worker can not complete an application because of a physical or mental incapacity, someone else may complete it on the worker's behalf.

(6) The insurer must, within 40 business days after an application under subsection (2) is made, decide to allow or reject the application.

(7) The insurer may reject the application only if satisfied the worker -

(a) was not a worker when the injury was sustained; or

(b) has not sustained an injury; or

(c) is, or may be, entitled to compensation under chapter 4A because -

(i) the worker has sustained a serious personal injury that meets the chapter 4A eligibility criteria; and

(ii) section 116 does not apply to the injury.

(8) The insurer must notify the worker of its decision on the application.

(9) If the insurer rejects the application, the insurer must also, when giving the worker notice of its decision, give the worker written reasons for the decision and the information prescribed by regulation.

(10) If the worker is aggrieved by the insurer's decision on the application, the worker may have the decision reviewed under chapter 13.

(11) If the insurer does not decide the application within the time stated in subsection (6) -

(a) the insurer must, within 5 business days after the end of the time stated in subsection (6), notify the worker -

(i) of its reasons for not deciding the application; and

(ii) that the worker may have the insurer's failure to decide the application reviewed under chapter 13; and

(b) the worker may have the insurer's failure to decide the application reviewed under chapter 13.

(12) To remove any doubt, it is declared that a decision of the insurer to allow the application does not entitle the worker to compensation for the injury.

The Case before the Commission

[14] At approximately 11.00 pm on 14 September 2017, the Appellant attended a fire in a multi-storey set of units at Freshwater on Old Smithfield Road. At the time of the incident, he was wearing a breathing apparatus which included an oxygen cylinder attached to his back. The Appellant entered the bathroom to gain access through the ceiling to the roof void in order to fight the fire. The Appellant stood on a ladder that slipped out from under him and he fell landing on to a bathroom vanity unit with his back on top of the oxygen cylinder and his head over the edge of the vanity.[7] He subsequently fell to the floor.[8]

[15] The Appellant recalled experiencing pain in the neck and shoulders immediately following the fall.[9] He complained of neck and back symptoms to his colleagues, including his Officer in Charge and the Operations Controller.

[16] During cross-examination, the following exchange occurred in relation to whether the Appellant had reported the injury to anybody at the workplace:

> Now, you didn't report your neck and shoulder injuries to anybody at the workplace, did you, in relation to September 2017?---Yeah, I did. Two of our officers knew, Chris Gambin and Greg Lobb.

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[7] TR1-14, LL20-29.
[8] Appellant's statement of facts and contentions filed 6 October 2021, [1]-[2]. The Respondent agrees with these contentions.
[9] TR1-17, LL9-10.

> You told them that you hurt your lower back, didn't you?--- No, no. No. No. Well, when I can't turn me neck, I'm not going to say that I only hurt me lower back when I can't turn me neck, I can't take a breath. Yeah, they all knew that I'd hurt meself [sic] big time and they were the ones who were advising me to take the time off.
>
> You didn't make a record of that though, did you?---No …[10]

[17] The Appellant told Mr Lobb that "…he was sore - he was having troubles with his back and his neck."[11] Mr Gambin's evidence was that the Appellant told him: "That he had - his neck and his back were sore, like he had hurt his back."[12] Neither Mr Gambin nor Mr Lobb referred to any shoulder injury suffered by the Appellant.

[18] A SHE (Incident Investigation Report) was lodged on behalf of the Appellant, but it is said not to contain a detailed list of the injuries sustained by the Appellant.[13]

[19] Mr Gambin told the Appellant that he needed to complete the Incident Report.[14] The Appellant claimed he had difficulty completing the report but the end sections of the report identifying and describing the injuries were authored solely by Mr Lobb.

[20] During cross-examination, Mr Lobb was referred to page 3 of the Incident Investigation Report under the heading "*Investigation*" and subheading "*Describe the damage or injuries sustained*" where it is stated "Injuries were made to the lower region of Fire Fighter Rooke's back and hip plus injuries to his rib on right side".[15] Mr Lobb's evidence was:

> There's nowhere in that comment - that specific comment that you make where you have written that the injuries that Leonard Rooke sustained on that date were cervical spine injuries or bilateral shoulder injuries; you didn't indicate that on this incident form, did you? ---And were they - were they in the drop-down box?
> I'm talking about the bit that you wrote in yourself:
>
> Describe the damage or injuries sustained.
>
> You did not write "cervical spine" or "shoulder injuries" in that box, did you, sir? ---No, I didn't but by the same token I'm not medically advised either.
>
> Thank you? ---To me - to me back and hip injuries cover that.
>
> Made to the lower region of FF Rooke's back and hip?
>
> ?---Sorry?
>
> That is not neck, is it, sir? ---By that definition, no, but, you know - - -[16]

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[10] TR1-29, LL36-45.
[11] TR1-41, LL44-45.
[12] TR1-47, LL25-26.
[13] Exhibit 2; WCR notice of appeal filed 28 July 2021, Facts relied on [4]-[5].
[14] TR1-17, LL43-45.
[15] Exhibit 2.
[16] TR1-44, LL24-42.

[21] The Appellant said in cross-examination that a co-worker, Ms Karen Christopher completed the Incident Investigation Report, and it was sent to him to read. Although he did read it, the Incident Investigation Report did not mention neck or shoulder injury.[17]

[22] The Nature of the Injury is expressed as back pain, lumbago, sciatica[18] and injuries to the lower region of the Appellant's back and hip plus injuries to his rib on right side.[19]

[23] The Appellant told the Commission that he did not record that he suffered injuries to his neck and shoulder because: *I don't go and every time I break a nail and I go and whimp off to a doctor*.[20]

[24] The Appellant was asked:

> HIS HONOUR: But you reported that you had lower back pain? ---Yeah.
>
> You reported other injuries that you'd sustained? ---Yes.
>
> But the question was of you that you hadn't reported that you had a neck and shoulder injury. Now, if you report the other things why is it the case that you did not report the neck and shoulder? ---Because, your Honour, when - when I - I initially hurt myself I reported to the officers on the fire ground at that time that I'd had a - I had a fall.
>
> Yes? ---And that with that I'd hurt my neck and my back, right.[21]

[25] The Appellant attended on Dr Andrew Korinihona a General Practitioner at Gordonvale Family Medical Centre on 29 September 2017. During his evidence, the Appellant described that attendance in the following way:

> And I went and saw Andrew and told him what had happened, that I'd fallen off a ladder and he took just a few details that I'd - I'd hurt my neck and back and shoulder and ribs and - and he wrote me out an X-ray to go and get an X-ray from which we've - what it showed - we do it had only showed up soft tissue damage anyway, nothing really that structurally, and went and got that, and then I came back after the X-ray thing and he goes, "Oh, you've done a bit of damage to - you've got soft tissue damage" and basically that was all he told me.[22]

[26] In evidence in chief, Dr Korinihona, said that in relation to the consultation on 29 September 2017, he recalled that the Appellant "… was very unwell, in terms of - he was in a lot of pain, when he came in".[23] Dr Korinihona's evidence was:

> All right. Can you tell us what you can recall of his story, in terms of telling you about something that had happened to him at work? ---Yeah. Well - well, I - I - I'll just have to refer to my notes

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[17] TR1-26, L41-TR1-27, L35; Exhibit 2.
[18] Exhibit 2.
[19] Ibid.
[20] TR1-29, L48-TR1-30, L1.
[21] TR1-30, LL5-15.
[22] TR1-20, LL5-12.
[23] TR2-14, LL28-32.

> now. He told me that he fell through a roof about two weeks ago, and while he was at work. And as he fell through the roof, he - the - the ceiling collapse with him, and he went down and landed on a - on - on - vanity, on a - a shower or - or a vanity in, like, he said he landed on his back. That's all.
>
> That's - that's what he told me.
> And in terms of what he told you about the pain he was suffering. Do you have any recollection of what he said about that? ---Well, I - I can only refer to my - to the notes of the day. The back pain and the chest pain that he - he had, which were the more - more - most pertinent symptoms that day.
>
> Did you conduct any clinical examination of Mr Rooke? ---Yes. He - I - I - he - he - he indicated to me that he - he was - he - he - he landed on - he went through, landed on his - on the vanity. He was experiencing a lot of chest pain and back pain. And on examination, he had maximum tenderness on the - in the - on - on the back mid-scapular a - around the - the ba - ba - the back spine, or - or the back. And - and on the posterior ribs. Ribcage area. Yeah.
>
> And when you say that, are you repeating what you've put in your note? ---Yes. What - what - what was recorded on the notes.[24]

[27] The Patient Health Summary for 29 September 2017 records under "Reason for Visit" as "Back pain/Chest Pain".[25]

[28] Dr Korinihona reiterated that the clinical notes he relied on were a summary of what was done on that visit.[26] Dr Korinihona did not record an injury to the Appellant's neck (cervical spine) or bilateral shoulders.[27] He told the Commission that had the Appellant complained of cervical pain, then he would have requested an x-ray of the cervical spine.[28]

[29] On 19 June 2018 the Appellant was involved in a further incident which was described as a "face plant". The Incident Investigation Report[29] relevantly described the incident as follows:

> While dragging hose to the fire, I looked back to see why hose was stuck and tripped over tree root in the grass face planting the ground. Fall was with full impact on face and jarred my whole body and I did not have time to put my hands out to brace myself for the fall.[30]

[30] The nature of the injuries sustained were described as:

> Due to the nature of the fall F/F Rooke, similar to a whip lash effect, has suffered muscular soreness and pain to back and neck.[31]

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[24] TR2-14, L40-TR2-15, L12.
[25] Exhibit 6.
[26] TR2-15, LL16-17.
[27] Respondent's submissions filed 28 February 2023, [57].
[28] TR2-18, LL6-7.
[29] Exhibit 3.
[30] Ibid.
[31] Ibid.

[31] It was accepted by the Appellant in cross-examination that he injured his neck when he tripped and "face planted".[32]

[32] The Appellant also attended on Dr Taha Asbaghinamini on 2 February 2019 for what was described as "Low back Thoracic back issues". The Patient Health Summary of Dr Asbaghinamini does not reveal any mention of a neck (cervical spine) injury and/or bilateral shoulder injury in relation to the incident on 14 September 2017.[33]

[33] In January 2020, the Appellant was involved in a further incident whilst in a four-wheel drive at Dimbulah. He recalled the injuries that arose out of that event were "basically stirring up the injuries that I'd received from - from, that I'd had before from my neck and my back from the other injuries that I had."[34]

[34] In his evidence, the Appellant recalled seeing Dr Korinihona on 3 June 2020 complaining that he had strained his pectoral and trapezius muscles. The Patient Health Summary for the visit recorded: "Strained his Pecs & Traps whilst doing a drill in a brand new Fire Engine."[35]

[35] The Appellant again attended on Dr Korinihona on 19 June 2020 complaining that he was unable to lift his shoulders or get out of bed or dress himself.[36] The Appellant accepted in cross-examination that the attendance on Dr Korinihona was related to injuries that he suffered to his pectoral and trapezius muscles a few weeks earlier.[37]

[36] The Appellant told the Commission that he sought other medical treatment. During cross-examination he explained:

> And after that did you seek any other medical treatment? ---I did years later. I did years later because I'd had other injuries along the way that it started contributing to those injuries and the back injury never and neck injury never ever went away and with that I had a couple of other incidences where I've been hurt and it was sort of just those incidents added to that incident, then it got to a stage of where I was in a lot of pain. I was in a lot of pain and got to a situation where I just couldn't handle it any more. I was taking - I was swallowing painkillers and Dolaseds and stuff all the time.[38]

[37] It was put to the Appellant that the neck injuries were not documented until after the Appellant's "face plant". He was asked:

> What I want to put to you is that your neck pain didn't start to be documented until after you face planted, in the doctor's notes, and I'm wondering - and I want to put to you that you didn't hurt your neck until after or during the face plant, well and truly after this September 2017 event?---

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[32] TR1-23, L29.
[33] Exhibit 4; Respondent's submissions filed 28 February 2023, [51]-[52].
[34] TR1-24, LL32-33.
[35] Exhibit 6, p 6.
[36] Exhibit 6, p 7.
[37] TR1-24, LL47-48.
[38] TR1-20, LL14-21.

> Oh, the face plant wasn't anywhere near as bad as what the fall off the ladder was. Okay, I hurt my neck - oh, yes, I did hurt my neck on the face plant …[39]

[38] The claim under s 132A of the WCR Act was not lodged until September 2020, some three years after the incident. The reason for the delay in making the claim was said to be because the Appellant "… couldn't put up with the pain any longer."[40]

[39] In cross-examination the Appellant said:

> It's not as though you don't know how to make a workers' compensation claim?---That's exactly right.
>
> Yet you didn't make your claim for your neck and shoulders until September 2020, some three years later? ---Three years later, that's exactly right, yeah.
>
> And so - - -?---Because at that time there I just couldn't put up with the pain any longer and I actually went and saw - when I went and saw Taha and he said, "Are you going to do this as WorkCover?", and I said, "Well, I've had that many different injuries over this period of time that they've all seemed to have stemmed from - from that main injury of falling through the ceiling", and he goes, "Well, we can write it - we'll do it as WorkCover" and I said, "Do whatever you like, do it as WorkCover". But I didn't take - I didn't take the time off, I still worked with those injuries even though I - he was doing it as WorkCover. I filled out - I think he did the report that - because he said to me, "Are you capable of working?" I said, "Yeah, I can still work, I just put meself [sic] out on an out station and I can still work."[41]

[40] I accept the Respondent's submission that absent the Appellant's oral evidence, there is no direct evidence to support a finding that the Appellant complained of shoulder pain as a consequence of the incident.

[41] Further, it is submitted that there is limited oral evidence of the Appellant complaining of neck pain to his partner and co-workers in the aftermath of the incident.[42] The evidence of the Appellant's partner does not assist the Appellant's claim. Ms Rooke told the Commission that:

> Did you see or hear anything that identified where he was suffering pain or restriction of movement? ---He said his lower back was hurting him and his neck, it seemed to be he couldn't turn, he'd never had full function of turning.[43]

[42] Ms Rooke did not identify in her evidence that the Appellant demonstrated any shoulder injury after the incident on 14 September 2017. The pain being experienced by the Appellant appeared to be predominately in his back. She said that the Appellant's "…lower back was hurting him and his neck"[44]; he complained that "…his

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[39] TR1-25, LL43-48.
[40] TR1-29, LL7-8.
[41] TR1-29, LL1-16.
[42] Respondent's submissions filed 28 February 2023, [53]-[54].
[43] TR1-38, LL6-8.
[44] TR1-38, LL6-7.

back was really hurting and he had trouble sleeping"[45]; and "… he found sitting was compressing the lower back, so it wasn't helping."[46]

[43] The Appellant seeks findings that he suffered neck and/or shoulder injuries in the incident and that his application pursuant to s 132A of the WCR Act be accepted.

[44] What is contended by the Appellant in his Statement of Facts and Contentions is that:

> The physical injuries were suffered in the event. Therefore the appellant contends that his employment was a significant contributing factor to those injuries and therefore each of the physical injuries was an injury within the meaning of section 32 of the WCRA.[47]

[45] The Appellant has failed to establish that he suffered a work-related injury, namely, a neck and/or shoulder injury arising out of the incident on 14 September 2017.

[46] In coming to that view, I accept the evidence of Dr Korinihona, supported by his clinical notes which do not reveal an injury to the Appellant's neck (cervical spine) or bilateral shoulders arising out of the incident on 14 September 2017. In the report of Dr Korinihona submitted to WorkCover Queensland on 2 November 2020 the nature of the injury sustained on 14 September 2017 was described as: Musculoskeletal soft tissue contusion of upper Torso. No rib/sternal fractures.[48] Equally, I accept that the Patient Review Summary in relation to the Appellant's attendance on Dr Asbaghinamini on 2 February 2019 did not disclose a neck (cervical spine) injury and/or bilateral shoulder injury. Moreover, the Incident Report only referred to the Appellant suffering "Back pain, lumbago, sciatica" and records "Injuries were made to the lower region of Fire Fighter Rooke's back and hip plus injuries to his rib on right side."[49] The first record of the Appellant suffering a neck injury only appeared after he had a "face plant" on 19 June 2018.

[47] On the evidence before the Commission, I cannot be satisfied on the balance of probabilities that the claimed injuries by the Appellant arose out of or in the course of his employment.

Conclusion

[48] The Appellant has failed to discharge the onus to the requisite standard that he suffered an injury within the meaning of s 32 of the WCR Act.

[49] The review decision dated 11 June 2021 is confirmed.

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[45] TR1-38, L19.
[46] TR1-39, LL22-23.
[47] Appellant's statement of facts and contentions filed 6 October 2021, p 2, [2].
[48] Exhibit 7.
[49] Exhibit 2.

[50] I will hear the parties as to the costs of the hearing.

Orders

[51] I make the following orders:

1. Pursuant to s 558(1)(a) of the *Workers' Compensation and Rehabilitation Act* 2003, the decision of the Respondent, dated 11 June 2021, is confirmed.

2. Pursuant to r 41(1) of the *Industrial Relations (Tribunals) Rules* 2011:

   (a) the parties are to exchange and file written submissions on the costs of the hearing (of no more than two (2) pages, 12-point font size, line and a-half spacing with numbered paragraphs and pages) by 4.00 pm on Monday 13 May 2024; and

   (b) unless otherwise ordered, the decision on costs be determined on the papers.