IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Ahluwalia v. Workers' Compensation Board of British Columbia,* 2023 BCSC 196

Date: 20230209
Docket: S234320
Registry: New Westminster

Between:

Jagdeep Singh Ahluwalia

Petitioner

And

Workers' Compensation Board of British Columbia

Respondent

Corrected Judgment: The text of the judgment was corrected at paragraph 84 on February 21, 2023

Before: The Honourable Justice Schultes

Reasons for Judgment

The Petitioner, appearing on his own behalf:	J.S. Ahluwalia
Counsel for the Respondent:	J.M. Goosen
Place and Date of Hearing:	New Westminster, B.C. February 17 & 18, 2022
Place and Date of Judgment:	New Westminster, B.C. February 9, 2023

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Introduction

[1] Mr. Ahluwalia is seeking judicial review of decisions by the Workers' Compensation Board of British Columbia that arise from an injury that he suffered on a job site. He argues that the Board acted unreasonably by (1) finding that working as a paralegal was a reasonable occupational goal for him and (2) terminating his job search assistance and benefits before he had found such a position.

[2] The Board says that it has acted reasonably throughout, and that some of the relief that Mr. Ahluwalia appears to be seeking is actually not available to him on this review.

[3] This matter was originally set for hearing in July 2021, but Mr. Ahluwalia's petition did not set out the basis on which these decisions are said to be unreasonable and/or procedurally unfair. I adjourned his application generally to give him an opportunity to file an amended petition to address these issues, which he has now done. He also provided a more detailed affidavit setting out the facts that he relies on.

Background

Injury and Initial Disability Award

[4] In April 2014, Mr. Ahluwalia's left little finger was injured by a saw while he was working as a framer in White Rock.

[5] Although he was employed in construction when he was injured, before immigrating to Canada he was qualified as a lawyer in India and had practiced for ten years. He also has a masters' degree in journalism.

[6] As a result of his workplace injury, he was entitled to wage loss benefits under the *Workers' Compensation Act*. He received temporary total disability benefits until his condition stabilized.

[7] He was eventually diagnosed with chronic regional pain syndrome and chronic pain in that finger. In July 2015 the Board found his condition to be a

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permanent partial disability. He was then referred to the Board's Disability Awards section.

[8] There are two methods used by the Board for assessing a disability award following such a finding. The "loss of function" method estimates the degree of the worker's functional impairment as a percentage of total disability and applies it to the worker's average earnings. The "loss of earnings" method compares the worker's pre-accident earnings to their post-accident earning capacity.

[9] In March 2016, when Mr. Ahluwalia's disability was assessed, the loss of earnings method could only be applied in exceptional circumstances, "where the worker is unable to return to their pre-injury job or adapt to a new occupation, without incurring a significant loss of earnings". (As of January 2021, the Board instead compares the amounts that will result from the application of each method and pays the worker the higher of the two.)

[10] At the same time that he was referred for an assessment of his disability award, he was also referred to the Board's Vocational Rehabilitation Services, to provide him with assistance in returning to work in a suitable occupation. VRS develops a rehabilitation plan for each injured worker. Their initial plan was for Mr. Ahluwalia to return to work as a legal administrative assistant, on the basis that such positions were "physically suitable and reasonably available" to him, and would replace his pre-accident earnings.

[11] He was entitled to wage replacement benefits, which are known as "VR benefits", while he was engaged in this rehabilitation plan.

[12] The Board decided to apply the loss of function method, and assessed his permanent partial disability pension as 7.5% of total disability. Because the alternative employment of a legal administrative assistant has average earnings that were equal or greater than Mr. Ahluwalia's pre-accident earnings, his circumstances were not found to be exceptional, and the loss of earnings method could not be applied.

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Initial Review and Appeal

[13] Mr. Ahluwalia sought a review of this decision with the Board's Review Division. It was unsuccessful. The decision was rendered in September 2016.

[14] He then appealed to the Workers' Compensation Appeal Tribunal.

[15] In June 2017, WCAT found that the Board had correctly assessed the degree of his functional impairment and that aspect of his appeal was denied.

[16] However, WCAT also found that the position of legal administrative assistant was not suitable for him, in light of his disability. It allowed his appeal on that issue, holding that he was entitled to a new decision from the Board on his eligibility for a loss of earnings assessment, based on an occupation other than legal administrative assistant.

[17] The Board takes the position that WCAT's decision on the suitability of the rehabilitation plan was made outside of its jurisdiction, and is a nullity. This is because both the current *Act* and the previous version that applied in 2017 provide that vocational rehabilitation decisions by a Board review officer may not be appealed to WCAT. Fortunately, this WCAT decision and the review decision that was appealed from are not the subject of the present judicial review, although Mr. Ahluwalia relies on WCAT's conclusions about the effect of his disability in his submissions.

[18] Despite WCAT's lack of jurisdiction to order it, VRS is entitled to develop new vocational plans on its own initiative whenever "significant developments" occur, and it did so in Mr. Ahluwalia's case.

Rehabilitation Plan as a Paralegal

[19] In April 2018, a new rehabilitation plan was created for Mr. Ahluwalia by VRS, based on the position of paralegal. The Board concluded that the loss of earnings method was still not appropriate, because his earning capacity as a paralegal, like

his capacity as a legal administrative assistant, would be equal to or higher than his pre-accident income.

[20] He sought reviews of both the new rehabilitation plan and the denial of the loss of earnings method. In November 2018 the Board's Review Division upheld both decisions.

[21] The review officer who wrote the decision rejected his assertion that employers were looking for paralegals who can type 45 words per minute. This assertion was based on Mr. Ahluwalia's own labour market research. His position was that because of his disability he was capable of 20 words per minute, using only his right hand.

[22] The officer's review of job postings on file, which were consistent with the required duties of a paralegal listed in the National Occupation Classification, revealed that while many of those duties, such as drafting documents, involved the use of a computer, there was no reference in them to the minimum typing speed described by Mr. Ahluwalia. As the officer put it, "It is clear that the occupation of paralegal does not require that the worker be a copy typist".

[23] Significantly from the officer's perspective, the NOC considered the position of paralegal to be "limited strength work" which was consistent with the limitations that were imposed on Mr. Ahluwalia by his disability, as previously identified by the Board.

[24] The officer noted that he was doing very well in his paralegal training program, obtaining 100% grades. They considered his legal training and experience in India, as well as the diplomas in legal administration and as a legal administrative assistant that he had obtained in Canada (in furtherance of his previous rehabilitation plan, I infer). They concluded that this background and training "fit extremely well" with the qualifications that were listed in the job postings for paralegals on file, so that such employment was reasonably available to him.

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[25] The officer also acknowledged Mr. Ahluwalia's request that the Board fund his retraining as a lawyer, but pointed out that this would exceed his "vocational rehabilitation entitlement", which was confined to replacing his pre-accident earnings.

[26] There is a Board policy that would have allowed him to request the diversion of the estimated total expenditure on the approved rehabilitation plan to his preferred one of qualifying as a lawyer in Canada, or for another possibility he had previously mentioned in his communications with the Board: a degree that leads to becoming a notary public.

[27] Mr. Ahluwalia then appealed those decisions to WCAT. In March 2019, it summarily dismissed the appeal of the rehabilitation plan, on the basis of its lack of jurisdiction over vocational rehabilitation matters.

[28] In July 2019 WCAT purported to render a decision on the denial of the loss of earnings method, upholding the decision of the Board's Review Division on that issue. The basis of its decision was that the rehabilitation plan for a paralegal position, with the earning capacity that it entailed, was appropriate.

[29] The Board says that by resting its decision on the correctness of the rehabilitation plan, WCAT once again exceeded its jurisdiction, also rendering that decision a nullity. The relevant point for our purposes is that if WCAT's decision is a nullity, the final decision was the one made by the Board's Review Division. (On the other hand, if the WCAT decision is considered to be valid, the Board says that the current petition cannot succeed, because WCAT has not been named as the respondent.)

Termination of Job Search Benefits

[30] Mr. Ahluwalia was paid VR benefits in relation to his search for a position as a paralegal. These are specifically described as "job search benefits". They began in May 2019.

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[31] His search for such a position continued to be unsuccessful. On December 1, 2019, he was granted a final extension of his job search benefits to December 29, after which no further benefits were paid. In total, he received 36 weeks of benefits before the termination.

[32] He sought a review of that termination, which was denied by the Board's Review Division in April 2020. There were several reasons given for this conclusion.

[33] The review officer noted that Mr. Ahluwalia had not met the Board's minimum requirements for "contacts" with prospective employers per week, which had been explained to him when his job search benefits began. In addition, Mr. Ahluwalia's job placement provider had rated his level of participation in his job search as only three out of five. His shortcomings included persistently stating to the job placement provider that he did not believe he would hired as a paralegal or in a related occupation, and restricting his job search to areas close to where he lived. In the most recent example of the latter problem, he had declined an interview with a recruiting agency because it was in a different municipality.

[34] In June 2020, WCAT dismissed an appeal of this decision, on the basis that it does not have jurisdiction to consider final review decisions about vocational rehabilitation services and benefits. Mr. Ahluwalia sought judicial review of WCAT's decision. It was dismissed by a judge of this Court, in unreported reasons, on October 6, 2020.

[35] This means that the decision of the Board's Review Division to uphold the determination of his VR benefits is the one that is subject to judicial review.

Relevant Post-Decision Developments

[36] Although judicial review is usually based on the record that was before the decision-maker, some of the subsequent events in this case help explain Mr. Ahluwalia's position on the review, and the options that may be open to him if it is not successful.

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[37] He wrote to the Board, in September and October of 2020, requesting an assessment based on the loss of earnings method, in light of his ongoing lack of success in obtaining a paralegal position.

[38] As of the filing of his most recent affidavit in August 2021, he had still not succeeded in obtaining a position.

[39] Later that month, a case manager with the Board informed him that they were reviewing his claim. In furtherance of that review the case manager requested permission to access his medical and employment records.

[40] He saw a family physician at the end of that month, who raised the questions of whether his "complex regional pain" was worsening, and whether he was suffering from depression. The doctor did not make any specific diagnoses or recommendations however.

Mr. Ahluwalia's Position

[41] It is common ground that the decisions that are capable of being reviewed here are the Review Division's upholding of the paralegal rehabilitation plan in November 2018, and its upholding of the termination of job search benefits in April 2020.

[42] With respect to the paralegal rehabilitation plan review, Mr. Ahluwalia raises the following concerns:

- The review officer ignored the evidence of his actual medical condition, which was contained in his medical records and available to the Board.
- The officer also ignored his request to switch from paralegal training to other forms of career training.
- The inconsistency of his typing speed with the requirements of a paralegal position was not properly considered. In particular, the importance of a fast

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typing speed in the preparation of legal documents is inconsistent with the review officer's assertion that the worker does not have to be "a copy typist".

- The physical requirements of a paralegal position, as described by the NOC requirements ("limited strength work…with upper limb coordination") exceed his documented capacity.

- His correspondence seeking to divert funds from the approved rehabilitation plan to support requalifying as a lawyer or training as a notary were not taken into account in reaching the decision.

- In general, the review decision has "ruined" his life, and he continues to suffer from anxiety and depression as a result of it. Exacerbating the situation, his case manager is no longer replying to his more recent letters.

[43] The decision upholding the termination of his job search benefits is said to have the following shortcomings:

- It also ignored his medical conditions and the physical unsuitability of a paralegal position.

- He was compelled to apply for positions in addition to paralegal vacancies, in disregard of the previous WCAT ruling that legal administrative assistant positions should not be part of his rehabilitation plan.

- Paralegal job vacancies are not published every day, so it is not possible to apply for 20 of them per week (the minimum number of contacts that the Board requires).

- He emailed his vocational consultant in August and September 2019, expressing his concern about the lack of effective assistance being provided to him by the job placement provider. In the September email he indicated that he could not take advantage of job postings in the Vancouver area, and that he required of a job "near Surrey" due to his "health reasons". (The

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significance of this correspondence, I took it, was to explain his negative comments about the possibility of securing a position as a paralegal, and his unwillingness to expand the geographic range of his job search.)

- The job search participation rating of three out of five that he was given is unfair, because he was never provided with a list of the addresses and emails of lawyers in Surrey to whom he could apply. (This element of unfairness is in addition to the medical problems and the insufficiency of job postings to satisfy the weekly contact requirements that I have already mentioned.)

[44] He denies the allegation that he would not attend at an employment-related appointment because it was in another municipality. He maintains that the allegation was fabricated by the job placement provider after he complained about the quality of her service.

[45] In general, he argues that the previous extensions of job search benefits that he received were a recognition that he was legitimately unable to secure a paralegal position, despite his efforts, a situation that continues.

The Board's Position

Overview

[46] Before addressing the reasonableness of the decisions that are subject to judicial review, the Board submits that there are two overall flaws in Mr. Ahluwalia's approach.

[47] The first is his reliance, as a basis for review, on his continuing inability to find a paralegal position. As I previously mentioned, it is the situation that existed on the record that was before the decision-maker that determines whether the decision was reasonable on review. Post-decision events can be addressed by the Board's ability to develop a new rehabilitation plan whenever there are significant developments.

[48] Second, he seeks orders that the board take certain steps with respect to his case, when the available remedy in the event of a successful judicial review is for

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the court to set the decision aside and send the case back to the decision-maker for a fresh consideration.

Guiding Principles

[49] There is no dispute that the standard of review in this case is reasonableness.

[50] On the correct approach to applying that standard, the Board refers to the guidance provided by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65:

> 83…[A] court applying the reasonableness standard does not ask what decision it would have made in place of that of the administrative decision maker, attempt to ascertain the "range" of possible conclusions that would have been open to the decision maker, conduct a de novo analysis or seek to determine the "correct" solution to the problem…Instead, the reviewing court must consider only whether the decision made by the administrative decision maker -- including both the rationale for the decision and the outcome to which it led -- was unreasonable.

[51] Other important considerations from *Vavilov*, according to the Board, are that the decision-maker's reasons must be examined with "respectful attention" by the reviewing court, seeking to understanding the reasoning process that was followed (para.84). The specialized knowledge of the decision maker must also be kept in mind, since it may explain otherwise counter-intuitive outcomes or the less-detailed treatment of certain issues (para.93).

[52] Elaborating further on the correct approach, the Court explained:

> 100 The burden is on the party challenging the decision to show that it is unreasonable. Before a decision can be set aside on this basis, the reviewing court must be satisfied that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency. Any alleged flaws or shortcomings must be more than merely superficial or peripheral to the merits of the decision. It would be improper for a reviewing court to overturn an administrative decision simply because its reasoning exhibits a minor misstep. Instead, the court must be satisfied that any shortcomings or flaws relied on by the party challenging the decision are sufficiently central or significant to render the decision unreasonable.

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Review of the Paralegal Rehabilitation Plan

[53] The Board points out that the concerns expressed by Mr. Ahluwalia all relate to factual findings by the Review Division, which *Vavilov* warns a reviewing court should not interfere with "absent exceptional circumstances" (para. 125). It submits that nothing in the Review Division's treatment of those factual issues was unreasonable.

[54] The Board's mandate was limited to assisting him in finding employment that would replace his pre-accident earnings, and he did not pursue the option of diverting the available funding to the exams that would qualify him as a lawyer in Canada or the notary public program.

[55] On the latter point, the Board refers to some of its communications with him in the record, which appear to show that he did not provide his vocational rehabilitation consultant with the necessary information about the qualification exams to practice as a lawyer in Canada, or with confirmation that he had been accepted into the notary public program. As a result, no formal request to divert the available funds could proceed.

[56] There was also no evidence before the review officer that a paralegal needed to be able to type 45 words per minute, as Mr. Ahluwalia claims.

[57] Although the 2017 WCAT decision that allowed the appeal of the legal administrative assistant rehabilitation plan had found that an occupation requiring "bilateral use of the hands or typing" was not suitable for him, the Board reminds me that this decision was made without jurisdiction and is not binding on it.

[58] Regardless, the records indicate that when he was assessed by the board's "disability awards medical advisor" (a physician) in 2016 he was found to have retained "generally good function" in his left hand.

[59] In the same year, he turned down an offer to have an occupational therapist assess his workstation to see if there were any ergonomic supports that would

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benefit him. In 2018 he was provided with speech recognition software and offered training with it, but he only completed three and a half of the ten hours of training that was offered. This training included the option of distance education (there was no funding available for the trainer to travel to his home to carry it out).

[60] Most importantly, there is evidence in the record that when the paralegal rehabilitation plan was developed in 2018, he and the vocational rehabilitation consultant sorted the job postings for paralegals into "whether they were highly clerical and with a greater likelihood of a greater emphasis on keyboarding speed or a greater reliance on legal knowledge."

[61] Mr. Ahluwalia also identified specific areas of law (immigration, real estate, wills) that involve working with prepared documents that only need the information relevant to each specific case filled in. He advised that the completion of the paralegal diploma would "give him the flexibility to work in all areas of the law as long as keyboarding speed is not a factor." In addition, the consultant encouraged him to keep practising his keyboarding, and referred him for the assessment that ultimately resulted in the speech recognition software training.

[62] The Board's point, as I took it, is that the relationship between Mr. Ahluwalia's typing speed and his employability as a paralegal was explicitly addressed in the development of the plan, which he then agreed to. The identification of suitable positions that could accommodate the extent of his disability also tends to undermine the 2017 WCAT findings that jobs involving typing were never suitable, it is argued.

[63] Finally, the Board emphasizes that it was Mr. Ahluwalia's medical condition at the time of the review that is relevant to its reasonableness. The Review Division accepted that he was limited to "light strength work" by his condition and the position of paralegal is classified as involving the even lower requirement of "limited strength work".

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[64] The medical records that were before the Review Division certainly showed ongoing difficulties, but the only physical limitation that he raised during the review process was with respect to typing.

[65] His subsequent claims to have suffered mood disorders and an increase in his pain levels from the injury, as the more recent report from the family physician suggests, need to be presented to the Board and accepted as additional conditions, or as a deterioration of his existing ones, before any additional support can be provided. They do not provide a current basis for judicial review, the Board argues.

Review of Termination of Job Benefits

[66] At the outset, the Board stresses that Mr. Ahluwalia's concerns about the extent of his disability and the suitability of a paralegal position are not relevant to the judicial review of this decision. All that is in issue is the reasonableness of the refusal to extend his job search benefits beyond December 2019. Once again that is a decision that was based on the factual findings of the Review Division.

[67] The policy governing job search assistance is that it can be provided for up to 12 weeks. Extensions beyond that period are justified if (1) the job in question is of kind that takes a long time to secure, (2) the worker's disability is severe enough that a long-term search is necessary, or (3) the worker is actively participating in the search and there is objective evidence that more time is required.

[68] The first two justifications do not appear to arise in Mr. Ahluwalia's situation, hence the focus of the decision on the extent of his job search efforts.

[69] In that regard, his failure to meet the minimum requirement of 20 contacts per week was a reasonable consideration. The Board notes that this requirement can be fulfilled by all forms of contact with prospective employers, not just formal job applications.

[70] The Board says it was also reasonable to rely on the input of his job placement provider, both with respect to his overall mediocre participation rating,

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and the specific concerns about his pessimistic attitude and the narrow geographic focus of his searches. Although he denies an allegation by the provider that he declined an interview with a recruiting agency due to its location, the reality was that he had expressed concerns about driving long distances early in the rehabilitation process, and in September 2019 had indicated that it was not possible for him to go to Vancouver for any reason, so the Review Division's overall findings about his attitude to travel was certainly not unreasonable, the Board argues.

[71] Finally, while Mr. Ahluwalia disputes the Review Division's finding that he stopped searching for jobs on December 13, 2019 even though his job search benefits were continuing, the subsequent affidavit in which he explains that he continued searching until January 6, 2020 was not part of the evidence on that review.

Discussion

[72] First of all, the general observations by the Board about the nature of Mr. Ahluwalia's submissions are correct. The review must be based on the evidence that was before the decision-maker at the time, and its reasonableness cannot be retroactively assessed based in light of new developments, such as an increase in his pain or the development of mood disorders. And, if I agree with Mr. Ahluwalia's submissions, I would set the decisions aside and return them for re-consideration by the Review Division. I am not able to order the Board to take any particular actions in relation to him.

[73] The Board has accurately summarized the reasonableness analysis that is required by *Vavilov*. There are two other passages from it that I think it would be helpful to refer to.

[74] First, the reviewing court is to consider whether the decision was a product of internally coherent reasoning:

> 102 To be reasonable, a decision must be based on reasoning that is both rational and logical. It follows that a failure in this respect may lead a reviewing court to conclude that a decision must be set aside. Reasonableness review is not a "line-by-line treasure hunt for error"...

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> However, the reviewing court must be able to trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic, and it must be satisfied that "there is [a] line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived"... Reasons that "simply repeat statutory language, summarize arguments made, and then state a peremptory conclusion" will rarely assist a reviewing court in understanding the rationale underlying a decision and "are no substitute for statements of fact, analysis, inference and judgment"...
>
> 103 While, as we indicated earlier (at paras. 89-96), formal reasons should be read in light of the record and with due sensitivity to the administrative regime in which they were given, a decision will be unreasonable if the reasons for it, read holistically, fail to reveal a rational chain of analysis or if they reveal that the decision was based on an irrational chain of analysis... A decision will also be unreasonable where the conclusion reached cannot follow from the analysis undertaken...or if the reasons read in conjunction with the record do not make it possible to understand the decision maker's reasoning on a critical point...
>
> 104 Similarly, the internal rationality of a decision may be called into question if the reasons exhibit clear logical fallacies, such as circular reasoning, false dilemmas, unfounded generalizations or an absurd premise. This is not an invitation to hold administrative decision makers to the formalistic constraints and standards of academic logicians. However, a reviewing court must ultimately be satisfied that the decision maker's reasoning "adds up".

[75] In addition, the decision "must be justified in relation to the constellation of law and facts" that are relevant to it (para. 105). To assist in this aspect of the analysis, the Court set out "a number of elements that will generally be relevant in evaluating whether a given decision is reasonable":

> 106 ...namely the governing statutory scheme; other relevant statutory or common law; the principles of statutory interpretation; the evidence before the decision maker and facts of which the decision maker may take notice; the submissions of the parties; the past practices and decisions of the administrative body; and the potential impact of the decision on the individual to whom it applies. These elements are not a checklist for conducting reasonableness review, and they may vary in significance depending on the context. They are offered merely to highlight some elements of the surrounding context that can cause a reviewing court to lose confidence in the outcome reached.

[76] Viewed in light of that approach, I conclude that neither of the decisions under review were unreasonable.

[77] The review of the paralegal rehabilitation plan reached a conclusion that rationally proceeded from a consideration of Mr. Ahluwalia's previous education and

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legal career, his training as a legal administrative assistant and his progress in his paralegal training. It assessed his documented level of disability against the strength requirements of the job, and weighed his typing limitations against a consideration of actual paralegal job requirements.

[78] While I was initially concerned about a contradiction between the conclusion that a faster typing speed was not essential and the drafting requirements set out in the official job description, the record before the Review Division shows that Mr. Ahluwalia and the vocational rehabilitation consultant specifically turned their minds to this issue when the rehabilitation plan was being developed, and a conscious decision was made to focus on those paralegal positions that were light on typing and heavy on legal knowledge, the latter presumably being his strength. Specific types of legal practices that rely on the completion of pre-populated documents were also identified.

[79] The record also shows the efforts that the Board made to supplement Mr. Ahluwalia's typing deficiency, including his tepid response to the training in the use of speech-recognition software that it provided.

[80] Understood in that context, there is nothing internally contradictory about the weight that was given to his typing ability in relation to his employability as a paralegal.

[81] Finally, the record before the Review Division also shows that at the time it made its decision Mr. Ahluwalia had not yet provided the required assurance to support diverting the paralegal funding to requalifying as a lawyer or training as a notary.

[82] With respect to the decision upholding the termination of his job search benefits, the Board is correct to point out that this is a separate inquiry from the question of the suitability of paralegal work as an occupation, and that the reasonableness of the decision relates to its assessment of Mr. Ahluwalia's job search efforts.

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[83] Once again, there is a rational flow from the evidence and policies considered by the Review Division to the conclusion that was reached.

[84] It appears that Mr. Ahluwalia misunderstood the meaning of required weekly "contacts", and the Review Division's broader actual interpretation did not impose an unreasonable burden on him. The Review Division relied on ongoing references by him to the unlikelihood of gaining employment as a paralegal that were not contradicted, and even on his own version of events he had essentially restricted his search to Surrey.

[85] His denial of having failed to attend an employment-related appointment because of the travel involved was not before the Review Division at the time of the review, and while there may well have been a personality conflict between him and the job placement provider, his relatively low job participation score was still justified in light of all of the evidence before the Review Division, and was reasonably relied on by it.

[86] Most significantly, the decision was made within the context of very extensive job search benefits already having been provided to him – for three times as long as the default maximum under the applicable policy. This made the focus on the extent of his efforts at that late stage a reasonable one.

[87] The Review Division's decision was based on the extent of his efforts in seeking a paralegal position, so if he was also referred for other positions, as he claims, such referrals did not play a role in the outcome of the review.

[88] The fact that he continued to search for jobs for an additional three-week period was also not before the Review Division at the time of the decision, and since the decision addressed the quality of his efforts rather than their duration, I do not think that information would have made the decision that was reached unreasonable.

[89] As a result, the petition must be dismissed.

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[90] I hope that Mr. Ahluwalia can take advantage of the Board's review of his claim to document fully any decline in his function or any new effects of his injury, including mood disorders; and, if it remains his wish to restart his legal career in Canada or become a notary, to provide everything the Board needs in order to allocate the available funding to reaching those goals.

[91] As is usual in cases of this kind, there will be no order for costs.

"Schultes J."

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