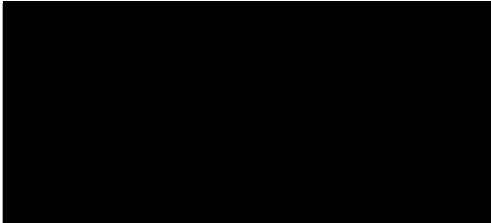


SUBMISSION OF CHRISTINE WINGARD

Christine Wingard



Years of service: 10 years

Postal Delivery Officer (Box-sorter) – Gisborne Post Shop

I injured my upper arm and shoulder while working alone unloading a colbey on 31 August 2009. This followed a previous claim for an incident on 18 November 2008 for which Australia Post accepted liability for “right supraspinatus sprain.”

I lodged my second compensation claim on 4 September 2009. It was denied on 28 September 2009.

The reasons given for the denial were based on the statement of [REDACTED] HR Advisor written on 23 September 2009 (19 days later). [REDACTED] was not present and did not visit the facility to my knowledge and certainly did not speak with me. He gives his opinion that because I had a previous injury I should have known better. He claims that the colby was designed to allow easy accessibility and that I did not open the gates. (This is not the case.) He then tries to cast doubt on my credibility by suggesting that I deliberately moved to a country location without a phone to avoid a possible fitness for duty (what happened was I was driven by my husband to our usual accommodation for the weekend.)

On 14 October 2009 I requested a Reconsideration of this determination. I pointed out that I was fit and free of pain when I came to work, and that I then had to attend the doctor the same day of the accident. It was her opinion that I received an aggravation to my earlier work related shoulder injury. My manager who saw me shortly after the accident and who understands the manual handling risks in the building because of the severe shortage of space recommended that this claim be accepted.

My doctor wanted me to have time off work but because of the lack of relief staffing I decided I should try to work. My restriction was to lift no more than 0.5 kg with no repetitive lifting. A company doctor provided restrictions of lifting **5 kgs frequently**. This was well outside my capacity to do safely, an opinion supported by the fact he increased this restriction back to 1 kg a couple of weeks later. I enclose the liability decision and my request for Reconsideration.

This spurious denial of my claim, and the pain I have been suffering has been very stressful.

After a request for more information, the Reconsideration Officer reversed the Delegate's decision and accepted liability.

I believe that Australia Post management try to caste any doubt they can on legitimate claims. This hurts honest and loyal employees and hinders their treatment and recovery and causes great stress and expense. I am also concerned that the underlying causes of accidents (very confined work spaces) are not investigated and fixed.

File Ref: 09/335843

[REDACTED]

28 September 2009

Ms Christine Wingard
[REDACTED]

Dear Ms Wingard

SAFETY, REHABILITATION AND COMPENSATION ACT 1988
Claim for compensation – Liability Decision

I refer to your claim for compensation you lodged on 4 September 2009 in respect of "upper arm and shoulder" allegedly sustained on 31 August 2009.

In consideration of the available evidence on file and by applying the provisions of the SRC Act 1988 liability for your claim for compensation is denied under Section 14 of the abovenamed Act.

In the course of investigating your claim, I have taken into consideration all the available evidence on file, in particular, the following:

- Your undated incident report dated 31 August 2009.
- Your claim form dated 4 September 2009.
- E-mail dated 23 September 2009 from [REDACTED] HR Adviser.

In your incident report dated 31 August 2009, you reported that you suffered from "upper arm and shoulder". You described the incident happened as follows:

"Reaching to back of trolley to get Royal Auto's out, felt pain in arm and shoulder".

On 4 September 2009, you lodged a claim for compensation for the alleged incident on 31 August 2009. In your claim form, you indicated that you have a similar sort of injury for which you claimed compensation.

Our record shows that you have had a previous claim for compensation, File Ref No 09/302237. You reported that on 18 November 2008, you were clearing stock and moving boxes to get to the parcel door as it was blocked. Australia Post found liability for "right supraspinatus sprain" for the incident on 18 November 2008. It is noted that you last attended acupuncture treatment on 16 December 2008 and last consulted your treating doctor on 10 March 2009 – given that there was no action on your file after this date, your claim has been closed.

2/...

An e-mail dated 23 September 2009 was provided by [REDACTED] and he stated the following:

"....Ms Wingard reported an un-witnessed incident in regard to her picking up Royal Auto magazines from the back of a Colby trolley.

Ms Wingard has a previous claim for her shoulder and it is not able to be explained why she would have overreached given this factor.

The Colby trolleys that were on hand have good working gates and there seems to be no need to reach to take a load away from the body as described.

Apparently Ms Wingard's husband dropped off a medical certificate letting the Postal Manager know that she would not be into work.

There were several attempts to contact Ms Wingard in regard to a possible fitness for duty without success. It appears Ms Wingard was located in the short term at northern country location without telephone capacity.

When contact was finally made with Ms Wingard an appointment was made with the Facility Nominated Doctor, who suggests that Ms Wingard could do her full shift with restrictions. It was possible for us to provide these duties. Her own doctor suggested she be off work for a month.

There are two box sorters at Gisborne, and although the accommodation is very tight for room, the alleged incident should not have occurred in the manner it is reported with a trolley that is designed to open to allow easy accessibility"

Reasons for decision

To be eligible for compensation benefits it must be evident that any injury sustained arose out of, or in the course of, your employment with Australia Post as required under Section 5A of the SRC Act 1988. This has not been established when considering the available evidence.

The reasons are as follows

- In your incident report, you stated that your alleged injury occurred on 31 August 2009 whilst you were reaching over to back up of trolley to pick up Royal Auto's.

[REDACTED] has indicated in his email that the Colby trolley have good working gates and there seems to be no need to reach to take a load away from the body as you described.

- In your claim form, you indicated that you have worked for Australia Post for the past 10 years as a Part-time as a Box Sorter. Hence, you are aware of the Safety Operating Practices and manual handling techniques in the performance of your duties.
- Evidence shows that there was no witness to your alleged incident on 31 August 2009.
- Although you indicated that injured yourself on 31 August 2009, it is unknown if the events occurred the way you have described it in your incident report.

In view of the above, I am unable to establish that your claimed condition which you have allegedly sustained on 31 August 2009 arose out of, or in the course of, your employment with Australia Post.

For your information, I have attached a copy of [REDACTED] email.

After viewing all the evidence on your compensation file, Australia Post is not liable to pay compensation benefits pursuant to Section 14 of the SRC Act 1988 for the abovementioned claimed condition. The determination is made after applying the provisions of Section 5A of the SRC Act 1988.

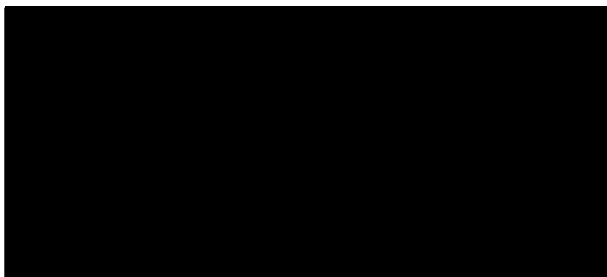
Hence, you are not entitled to any compensation benefits under the abovenamed Act.

Attached is a formal determination together with an "Employees' Rights and Responsibilities" notice. If you are dissatisfied with the above decision, you may ask Australia Post to reconsider it. The reconsideration request must be **in writing** and you have to set out the reasons for seeking the review.

Please note that under the Injury Management Program up to 4 doctor consultations with a Facility Nominated Doctor and 4 physiotherapy treatments with a Facility Nominated Physiotherapist can be considered. However, any other medical expenses incurred will be your responsibility to settle.

Please note that any leave of absence which you have taken relating to your claimed condition will be forwarded to your Manager to authorise/grant the leave and then to be forwarded to Shared Service Division for processing.

If you have any questions concerning this letter, I can be contacted on the telephone number listed.



File Note: Christine Wingard Gisborne Post shop

Ms Wingard reported an un-witnessed incident in regard to her picking up Royal Auto magazines from the back of a Colby trolley.

Ms Wingard has a previous claim for her shoulder and it is not able to be explained why she would have overreached given this factor.

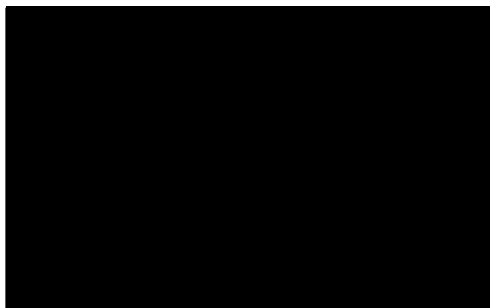
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Apparently Ms Wingard's husband dropped off a medical certificate letting the Postal Manager know that she would not be into work.

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When contact was finally made with Ms Wingard an appointment was made with the Facility Nominated Doctor, who suggests that Ms Wingard could do her full shift with restrictions. It was possible for us to provide these duties. Her own doctor suggested she be off work for a month.

There are two box sorters at Gisborne, and although the accommodation is very tight for room, the alleged incident should not have occurred in the manner it is reported with a trolley that is designed to open to allow easy accessibility.



14 October 2009

[REDACTED]
Australia Post
GPO Box 2020
MELBOURNE VIC 3001

Fax No: 92994548

Dear [REDACTED]

Re: Claim No: 09/335843 – “upper arm and shoulder pain ongoing”

I am writing to seek a Reconsideration of your Determination dated 28 September 2009.

I would like you to consider the following information and medical evidence in making your decision.

When I attended work on 31 August 2009, I was healthy and free of pain. After my accident lifting the Royal Auto magazines out of the colbey, I suffered a severe pain to my upper arm and shoulder. I attended [REDACTED] on the same day. It is her opinion that I received an aggravation to my earlier work-related shoulder injury. There is no other incident or activity that can explain my injury. The injury occurred at work during the performance of my work duties. It clearly arose in the course of employment so I would ask that Australia Post accept liability under s 5A of the SRC Act.

Please note my manager's recommendation that this claim should be accepted.

[REDACTED] has no knowledge of me or my work. His opinion which was provided 17 working days later has no validity. He has not spoken to me before writing his report.

He is mistaken when he says I did not open the gates on the colbey. I did follow Safe Operating Procedures, it was simply impossible to get this heavy bundle of mail without over-reaching because of its location at the back of the colbey. [REDACTED] does not seem to realise that I work alone from 6am on Mondays until the other box-sorter comes in at 7am to assist. During this time I do heavy unloading.

[REDACTED] makes it sound like I have done something sinister when he states “I was located in the short term at northern country location without

telephone capacity". I assume he is referring to the fact that my husband drove me to our usual accommodation for the week-end. I note that should Australia Post had any instruction for me it could have been sent by post and I would have complied with this instruction.

In relation to the issue of whether I had a capacity to perform restricted duties, on 31 August 2009, [REDACTED] thought I should have had time off work, but I told her I would try to attend work because of the lack of relief staffing. [REDACTED] indicated that I could not lift more than 0.5 kg with my right arm and stipulated no repetitive lifting at all from 31 August 2009. Her certificates cover from 31 August to 28 September 2009.

A company doctor [REDACTED] provided restrictions of lifting **5 kgs frequently** between 3 September 2009 and 3 October 2009. This was well outside my capacity to do safely, an opinion supported by the fact he increased this restriction **back to 1 kg** from 21 September 2009 to 21 October 2009.

[REDACTED] my treating doctor, was of the firm opinion that I was unfit for any duties from 16 September to 22 October 2009. See attached certificate.

I submit that you should prefer [REDACTED] opinion because he has provided a proper diagnosis, upon a full investigation of my injury and because he and [REDACTED] work in the same clinic as the doctor, [REDACTED] who treated my earlier workplace injury, he has more information about my medical history and condition than [REDACTED]

On 24 September, 2009 I had an ultrasound which shows a tear. This is also enclosed.

I was asked by my manager to fill-out a second claim form.

I would ask that Australia Post reconsider the Determination of 28 September, 2009 and accept liability for this work related injury. The Determination is wrong in law and against the weight of medical evidence.

Yours faithfully

Christine Wingard
[REDACTED]