

WORKERS COMPENSATION COMMISSION

STATEMENT OF REASONS FOR DECISION OF THE APPEAL PANEL IN RELATION TO A MEDICAL DISPUTE

Matter Number:	M1-2740/20
Appellant:	Tania Louise Rhodes
Respondent:	St Luke's Care
Date of Decision:	24 December 2020
Citation No:	[2020] NSWCCMA 186

Appeal Panel:	
Arbitrator:	Marshal Douglas
Approved Medical Specialist:	Dr David Crocker
Approved Medical Specialist:	Dr John Ashwell

BACKGROUND TO THE APPLICATION TO APPEAL

1. On 16 October 2020 Tania Louise Rhodes (the appellant) lodged an Application to Appeal Against the Decision of Approved Medical Specialist. The medical dispute was assessed by Dr Robert Ivers, an Approved Medical Specialist (AMS), who issued a Medical Assessment Certificate (MAC) on 22 September 2020.
2. The appellant relies on the following grounds of appeal under s 327(3) of the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act):
 - the assessment was made on the basis of incorrect criteria,
 - the MAC contains a demonstrable error.
3. The Registrar is satisfied that, on the face of the application, at least one ground of appeal has been made out. The Appeal Panel has conducted a review of the original medical assessment but limited to the ground(s) of appeal on which the appeal is made.
4. The WorkCover Medical Assessment Guidelines set out the practice and procedure in relation to the medical appeal process under s 328 of the 1998 Act. An Appeal Panel determines its own procedures in accordance with the WorkCover Medical Assessment Guidelines.
5. The assessment of permanent impairment is conducted in accordance with the *NSW Workers Compensation Guidelines for the Evaluation of Permanent Impairment*, 4th ed 1 April 2016 (the Guidelines) and the *American Medical Association Guides to the Evaluation of Permanent Impairment*, 5th ed (AMA 5).

RELEVANT FACTUAL BACKGROUND

6. The applicant commenced employment with St Luke's Care (the respondent) in June 2002 as an assistant in nursing. On 24 June 2003 she slipped on a wet floor and suffered an injury. In an "employee's report of injury" that the appellant signed on 24 June 2003 she described her injury as being "right shoulder blade and arm and mid-back".

7. In a statement the appellant signed on an unknown date, she said that she “sustained an injury to my neck, back, arms and legs” in the incident on 24 June 2003. In that undated statement she also said:

“Following my injury to the left shoulder, I started to use my right shoulder to overcompensate for my left shoulder in every day to day task. For example when carrying out any domestic duties at home, such as vacuuming, mopping, doing the bed and the washing. Even when carrying out any work I would also use my right shoulder to do most of my duties to compensate for my left shoulder. Over time I started to notice increasing pain in my right shoulder”.
8. It is apparent from the material before the Appeal Panel that the appellant previously commenced proceedings in the Commission against the respondent (matter number WCC005859/07) seeking compensation for permanent impairment from her injury insofar as that her injury involved her cervical spine, thoracic spine and left upper extremity. It is also apparent that those earlier proceedings involved a medical dispute between the parties regarding the degree of the appellant’s permanent impairment at that time from her injury. That medical dispute was referred to AMS Dr Albert Bencsik, who on 19 October 2007 assessed that the degree of the appellant’s permanent impairment from her injury was 14% whole person impairment (WPI), comprising 6% WPI relating to her cervical spine, 0% relating to her thoracic spine and 9% relating to her left upper extremity.
9. There is no certificate of determination in the material before the Appeal Panel to indicate what orders the Commission made with respect to the determination of the appellant’s claim that was the subject of those earlier proceedings, but the Appeal Panel observes from a notice the respondent’s insurer issued the appellant on 14 February 2019 under s78 of the 1998 Act, that the insurer said that the appellant had been awarded lump sum compensation under s 66 of the *Workers Compensation Act 1987* (the 1987 Act) in respect of a 14% WPI. It would seem therefore that the Commission in the earlier proceedings entered an award for the respondent to pay the appellant compensation for 14% WPI resulting from her injury.
10. On 30 October 2018, the appellant’s solicitors wrote to both the respondent and its insurer advising them that the appellant was claiming compensation for “25% whole person impairment (neck, back, left shoulder and right shoulder) in the amount of \$42,000”. The appellant’s solicitors enclosed with its letter two reports of Dr J. Brian Stephenson dated 18 October 2018, to support the appellant’s claim. Dr Stephenson, who is an orthopaedic surgeon, assessed the appellant had 25% WPI from her injury comprising 7% WPI relating to her cervical spine, 5% WPI relating to her lumbar spine, 8% WPI relating to her left upper extremity and 8% WPI relating to the right upper extremity. Dr Stephenson said, “now the opposite right shoulder is involved as a consequence of pre-existing left shoulder involvement”.
11. The respondent’s insurer in the notice it sent the appellant on 14 February 2019 advised the appellant that it denied it was liable to pay the appellant the compensation she had claimed by way of her lawyer’s letter of 30 October 2018. It notified her that it disputed that she had sustained an injury to her lumbar spine or right shoulder, that employment was the main contributing factor to “any disease injury” in her lumbar spine or right shoulder, and that her employment was a substantial contributing factor to any injury to her lumbar spine and right shoulder. The insurer further advised that it disputed that she had suffered any further WPI as a result of her injury from that for which she had received compensation.
12. On 19 May 2020 the appellant registered with the Commission an Application to Resolve a Dispute (ARD) seeking determination of her claim for compensation for permanent impairment. Her claim was referred to arbitrator Mr Ross Bell who on 19 June 2020 issued a Certificate of Determination (COD), with the consent of the parties, in the following terms:
 - “1. Award in favour of the respondent in respect of allegation of injury or consequential injury to the lumbar spine.

2. The claim for s66 of the *Workers Compensation Act 1987* lump sum compensation is remitted to the Registrar for placement on medical assessment pending list for referral to an Approved Medical Specialist (AMS) for assessment of whole person impairment as follows:
 - Cervical spine
 - Thoracic spine
 - Left upper extremity (shoulder)
 - Right upper extremity (shoulder)

Date of Injury- 24 June 2003

3. The documents annexed to the Application and the Reply are before the AMS; there are no further documents.”
13. On 14 September 2020, an amended referral was issued to the AMS. The unamended referral is not in the material before the Appeal Panel. The Appeal Panel observes that the amended referral lists within the brief of documents that were to be provided to the AMS an application to admit late documents dated 11 September 2020 and the documents attached to that. The Appeal Panel also observes that the original date of the referral to the AMS was specified within the amended referral as being 6 August 2020. Noting that arbitrator Bell indicated in the COD he issued that there were no documents other than the ARD and the Reply to be forwarded to the AMS, it would seem that the amendment was made to the referral to reflect that the parties were seeking that documents in addition to those listed in the COD were to be forwarded to the AMS.
14. Be that as it may, and as indicated above, the AMS on 22 September 2020 issued the MAC in response to the medical dispute that had been referred to him. He assessed the degree of the appellant’s permanent impairment from her injury was 16% WPI.

PRELIMINARY REVIEW

15. The Appeal Panel conducted a preliminary review of the original medical assessment in the absence of the parties and in accordance with the WorkCover Medical Assessment Guidelines.
16. As a result of that preliminary review, the Appeal Panel determined that it was not necessary for the appellant to undergo a further medical examination. This is because neither party requested a further examination and the information in the documents before the Appeal Panel, including the AMS’s findings from his examination of the appellant, are sufficient for the Appeal Panel to determine the appeal and re-assess the medical dispute referred for assessment.

EVIDENCE

17. The Appeal Panel has before it all the documents that were sent to the AMS for the original medical assessment and has taken them into account in making this determination.

MEDICAL ASSESSMENT CERTIFICATE

18. The AMS noted within the history he obtained that the appellant slipped on a wet floor on 24 June 2003. The AMS noted that the appellant did not fall, but twisted about her waist and experienced pain in her spine and in her interscapular area and left shoulder. The history the AMS obtained also included that the appellant developed pain in the region of her right shoulder around two years after the incident on 24 June 2003. The AMS said that the appellant denied any injury to her right shoulder. The AMS noted that the appellant stated that she experienced occasional numbness in the region of her right arm extending into the ulnar aspect of the hand.

19. The AMS noted that the appellant's present symptoms included neck pain that was worse when she rotated her neck or bent forward. The AMS noted that the appellant constantly had to move her neck to obtain relief of her symptoms. The AMS noted that the appellant has episodic bifrontal migrainous type headache. The AMS noted that the appellant experienced pain in her thoracic spine and that she had difficulty sitting in the same position for prolonged periods and had to stretch constantly. The AMS noted that the appellant had similar pain in her lumbar spine that passes into her hips and into the posterior aspect of her right thigh.
20. The AMS noted with respect to the appellant's shoulders that the appellant's symptoms included pain in her right shoulder that increased with activity and that was worse when driving. The AMS noted that the appellant had pain in her left shoulder that increased with activity. The AMS noted that the appellant had numbness in her hand. The AMS noted that in the six months preceding his assessment of the appellant's permanent impairment the appellant believed that her left shoulder had been static whereas her right shoulder had become worse.
21. The AMS recorded the following findings from his examination of the appellant:

"Ms Rhodes underwent a cooperative clinical examination today, in the presence of an assistant, Julie. She moves about the examination room reasonably comfortably and is "not protective" of either upper limb. Her gait is normal, including toe and heel standing and walking. She stands 160 cm and weighs 49 kg. She stands straight.

Examination of the cervical spine reveals mild tenderness in the left and right paracervical region and also over the posterior lower cervical area. Flexion of the neck is 1/8 chin to chest. Extension, lateral flexion and rotation is to 1/8 expected range with a complaint of pain. There appears to be definite truncal shift with involuntary lateral flexion with forward flexion. There are mildly positive Waddell signs with axial compression of the skull.

Examination of the thoracic spine reveals normal posture. There is tenderness posteriorly and centrally over the lower lumbar area and in the right posterolateral paralumbar region. Rotation of the thoracic spine in the flexed position produces a complaint of pain though there is normal range.

Examination of the lumbar spine reveals flexion of the spine to the knee. Extension, lateral flexion and rotation is to 2/3 expected range with a complaint of pain. There are mildly positive Waddell signs with axial compression of the shoulders. Straight leg raising on each side is to 60° with a negative Lasegue test. Strength in the lower limbs is to grade 5/5. There appears to be diminished sensation over the lateral aspect of the right thigh. This has been tested on several occasions using different modalities. The calf and foot test normally. Deep tendon reflexes are intact. The thighs and calves measure equally.

Examination of the shoulders reveals generalised tenderness over the superior and lateral aspect. The acromioclavicular joints are tender though not particularly prominent. The long head of biceps on each side is intact.

Measured range of motion of the shoulder is as follows:

	Right shoulder	Left shoulder
Forward elevation	90°	100°
Extension	20°	30°
Abduction	70°	80°
Adduction	30°	20°
External rotation in abduction	40°	40°
Internal rotation in abduction	30°	30°

Strength of the shoulder muscles, with encouragement, is to grade 5/5. There is a positive Hawkins test on each side and negative biceps stress tests. The upper arms and forearms measure equally.”

22. The AMS noted that the appellant brought with her to the assessment several x-rays which the AMS reviewed. The AMS also noted that within the brief of documents the Commission had forwarded him there were reports that related to radiology in regards to which the films were not available for his perusal at the time of assessment. The AMS provided brief summaries of the radiology he viewed and the reports he had been provided. Relevant to this review are the radiological investigations that related to the appellant’s right shoulder and left shoulder and cervical spine, in regards to which the AMS provided the following summaries:

“An ultrasound examination of the right shoulder dated 11 June 2018 reports an intact rotator cuff and a partial thickness intra substance tear of the infra spinatus tendon. The report mentions a presence of bursitis and tendinitis.

An ultrasound examination of the right shoulder dated 21 June 2017 reports bursitis and a small infraspinatus tear. There is no retraction of the tendon. Plain x-rays of the same date report mild degenerative changes in the region of the acromioclavicular joint.

There is a report regarding an MRI examination of the right shoulder dated 12 September 2013 which notes an intra substance split like tear within the distal supraspinatus and a suspected old SLAP lesion along with subacromial bursitis.

...

An ultrasound examination of the right shoulder dated 1 July 2010 reveals some bursitis with an intact cuff.

...

A CT scan of the cervical spine dated 4 May 2009 confirms the degenerative change at the C4/5 and C5/6 level with end plate sclerosis and some anterior and posterior osteophytes. A compressive lesion is not evident.

An ultrasound examination of the right shoulder dated 27 January 2009 reports the rotator cuff is intact.

Plain x-rays of the left shoulder dated 2 January 2009 reported as being normal. There has been a left C6 nerve root block on 26 May 2008, and a left C7 nerve root block on 12 May 2008.

A report of an MRI examination of the left shoulder dated 30 March 2008 mentions focal lamination of the supraspinatus tendon and degeneration of the posterior labrum.

An MRI examination of the cervical spine dated 13 March 2008 reveals multilevel degenerative change without a compressive lesion. There is what appears to be a haemangioma at the C6 level and a posterior disc bulge at C4/5 and C5/6 with desiccation of those discs.”

23. The AMS assessed the appellant's permanent impairment relating to her cervical spine to be 8%, which included an uplift of 3% for the effect her impairment had upon her activities of daily living, 0% for her thoracic spine, 10% for her left upper extremity and 11% for her right upper extremity. The AMS provided the following summary of the appellant's injuries and diagnoses:

“Aggravation of cervical spondylosis
Musculoligamentous strain to the thoracic spine
Left rotator cuff tendinitis
Right rotator cuff tendinitis

I do not consider that there has been a work injury to the right shoulder. I hold the opinion that the orthopaedic literature does not support the concept of “overuse” whereby a subsequent injury to a remote joint occurs following an injury to a specific joint. Whilst it is likely that right shoulder rotator cuff tendinitis is present, I conclude that this is related to constitutional factors rather than the work injury under evaluation.”

24. The AMS repeated that passage at Part 11a of the MAC in answer to the question, “in my opinion the worker suffers from the following relevant previous injuries, pre-existing conditions and abnormalities”.
25. The AMS made a deduction under s 323(1) of the 1998 Act of 10% for the contribution that he considered the appellant's pre-existing cervical spondylosis made to the impairment of her cervical spine. The AMS also made a deduction of 100%, purportedly under s 323(1) of the 1998 Act, for the contribution that the appellant's rotator cuff tendinitis made to the impairment of her right upper extremity, which condition the AMS, as indicated above, considered was a constitutional factor unrelated to the appellant's work injury.
26. Accordingly, the AMS assessed the appellant to have 16% WPI from her workplace injury and certified accordingly.

SUBMISSIONS

27. Both parties made written submissions. They are not repeated in full, but have been considered by the Appeal Panel.
28. In summary, the appellant submits that the AMS made an error by finding that she suffered no injury to her right shoulder. The appellant submits that the AMS also made an error when assessing her impairment of her right upper extremity by making a deduction under s 323 of 100% for a pre-existing condition she had in her right shoulder.
29. The appellant submits that Arbitrator Bell made “an award to reflect the appellant suffered injury to her right shoulder on 24 June 2003” and that the AMS was incorrect to assume that her “right shoulder injury was a constitutional condition”. The appellant submits that in doing so, the AMS made a finding “directly contrary to the award made by the arbitrator”. The appellant submits that there was no evidence that she had any pre-existing condition in her right shoulder prior to her work place injury. Consequently, according to the appellant, the AMS was unable to make a “100% deduction under s323 in relation to the right shoulder”.
30. The appellant also submits that the AMS provided no reasons for concluding that all her impairment relating to the right upper extremity is due to the constitutional condition.
31. In reply, the respondent submits that the AMS did not make an error by diagnosing the appellant's right rotator cuff tendinitis was related to constitutional factors rather than the work injury. The respondent submits that the AMS's diagnosis with respect to the appellant's right shoulder is not inconsistent with the consent orders arbitrator Bell issued on 19 June 2020. The appellant submits that the AMS correctly assessed the extent of the appellant's WPI relating to her right upper extremity from the injury on 24 June 2003.

FINDINGS AND REASONS

32. The procedures on appeal are contained in s 328 of the 1998 Act. The appeal is to be by way of review of the original medical assessment but the review is limited to the grounds of appeal on which the appeal is made.
33. In *Campbelltown City Council v Vegan* [2006] NSWCA 284 the Court of Appeal held that the Appeal Panel is obliged to give reasons.
34. The appellant in the ARD described alternative bases for the manner in which her injury occurred, insofar as it affected her right shoulder. She described it, firstly, as being caused directly by the incident itself, in which she slipped on a wet floor, and secondly or alternatively, as being a consequence of her overusing her right arm between 24 June 2003 and 1 March 2006 due to her “over compensating for her neck and left shoulder injuries”. In other words, she described her injury as being due to either or both a direct injury caused on 24 June 2003 or being a consequence of her protecting her neck and left shoulder and using her right arm more.
35. The COD that arbitrator Bell issued does not specify whether both or one or the other of those mechanisms applied. The terms of the COD are such that it must be one or other or both of those options, but it cannot be none of those options.
36. Because it was not specified in the COD whether both or which one of the two mechanisms applied, that is because the parties had not agreed upon this, the AMS was required to determine whether both or which of the two alternative mechanisms applied, and having done so was then required to assess the degree of the appellant’s permanent impairment resulting from her injury.
37. The AMS did not do this. He did not consider whether the incident itself gave rise to an injury to the appellant’s right shoulder. Insofar as he did not do that, the MAC contains a demonstrable error.
38. Further, the AMS in doctrinaire fashion assumed that the appellant’s overuse of her right arm, so as to protect her neck and left shoulder, could not have an effect upon the symptoms she suffered in her right shoulder. His explanation for that was really to refer to “orthopaedic literature”, without specifying the literature to which he referred. By providing no detail of the literature to which he referred, he has not, in the Appeal Panel’s view, adequately exposed his reasoning for finding that the appellant’s impairment is not due to the incident that occurred on 24 June 2003. For that reason too, the Appeal Panel considers that the MAC contains a demonstrable error.
39. Further, there is no evidence that the appellant, preceding the incident on 24 June 2003, had any pre-existing condition in her right shoulder or had suffered a previous injury to the right shoulder. Consequently, s 323(1) of the 1998 Act could not be engaged in the circumstances of this case with respect to the appellant’s right upper extremity. That also is another error in the MAC.
40. Noting that the appellant reported on the day of the incident that she suffered an injury to her right shoulder blade, the Appeal Panel is satisfied that she experienced pain in her right shoulder blade from that incident. However, having regard to the history the AMS obtained of the appellant developing pain in the region of the right shoulder after about two years, for which she sought treatment from Dr Faux in 2005, and noting that AMS Dr Bencsik when he examined the appellant on 11 October 2007 for the purpose of certifying her permanent impairment on 19 October 2007, found the appellant’s right shoulder to be normal, the direct injury the appellant suffered to her right shoulder blade on 24 June 2003 was likely, on the Appeal Panel’s view, to have been a soft tissue injury that healed relatively quickly thereafter.

41. Further, when the appellant consulted Dr Lorraine Jones on 19 September 2003 on referral from her GP, Dr Jones did not then take a history of the appellant suffering pain in her right shoulder, but rather took a history of the appellant developing pain in her back that developed to pain on the left side of the neck and the left shoulder. Dr Robin Mitchell, an occupational health physician, took a similar history when the appellant, also on referral from her GP, consulted him on 18 June 2004. If the direct injury to the appellant's right shoulder blade that occurred on 24 June 2003 was something more than a minor soft tissue injury that healed quickly, the appellant would still have been experiencing symptoms from that injury in September 2003 and June 2004. The fact that the appellant did not report symptoms to these specialist medical practitioners indicates to the Appeal Panel that the soft tissue injury she suffered to her right shoulder blade had healed.
42. Given AMS Dr Bencsik found from his examination of the appellant in October 2007 that the appellant had a normal right shoulder, it seems to the Appeal Panel's that the appellant's current presentation in terms of her restriction in her range of movement of the right shoulder is not explicable by the direct soft tissue injury she suffered on 24 June 2003 to her right shoulder blade. The restriction in her present range of movement is, in the Appeal Panel's view, most likely the consequence of the pathologies in her right shoulder that have been identified radiologically and that likely developed after 24 June 2003. The Appeal Panel considers that those pathologies are likely to have been arisen independently of the incident on 24 June 2003. In other words, those pathologies are likely to have arisen independently of the soft tissue injury the appellant suffered on 24 June 2003 to her right shoulder blade and, as the AMS opined, are likely to have developed due to constitutional factors.
43. The pathologies in the appellant's right shoulder were not causing her any restricted range of motion as at the time AMS Dr Bencsik examined her on 11 October 2007. The appellant was however by 2009 consulting her GP with respect to right shoulder pain. The appellant says in her statement that she used her right shoulder to overcompensate for her left shoulder. In other words, she used her right arm more than she otherwise would to protect her left shoulder.
44. In those circumstances, the Appeal Panel considers that the additional use by the appellant of her right shoulder, as a consequence of the injury to her left shoulder, has contributed in a material way to her present symptoms in her right shoulder. Her present symptoms in and her restriction of movement of her right shoulder is a consequence of the pathologies that developed in her right shoulder due to constitutional factors, and irrespective of her injury, but these are likely to have been aggravated, irritated or worsened due to her using her right shoulder more than she otherwise would to protect her left shoulder.
45. The Appeal Panel also considers that irrespective of her overusing her right shoulder, she would have had a considerable degree of impairment in her right shoulder as a consequence solely of the pathologies that developed in her right shoulder due to constitutional factors, which, as said, is unrelated to her overcompensating by using her right shoulder more due to her left shoulder injury.
46. Simply put, the appellant's present presentation in terms of her right shoulder, and specifically her restricted range of motion, is due to both the pathologies in her right shoulder which developed due to constitutional factors and also her overusing her right shoulder to protect her left shoulder. The appellant nevertheless would have had an impairment in her right shoulder due to the pathology that developed due to constitutional factors independently of her overusing her right shoulder. The degree to which her present impairment in her right shoulder relates to her overuse of her right shoulder and the degree to which it relates to the constitutional factors are, in the Appeal Panel's view, equal.
47. The Appeal Panel adopts the findings of the AMS from his examination of the appellant. There is nothing within the material that indicates that he did not conduct the examination of the appellant in other than a professional and clinical manner and in the Appeal Panel's view, given that, the Appeal Panel can rely upon his findings from the examination of the appellant. Moreover, neither party suggested to the contrary in their respective submissions.

48. Based on that, the Appeal Panel also assesses that the degree of permanent impairment of the appellant with respect to her cervical spine is 8% WPI, that with respect to her thoracic spine it is 0%WPI, that with respect to her left upper extremity it is 10% WPI and that with respect to her right upper extremity it is 11%. With respect to her right upper extremity, for the reasons just given, the Appeal Panel considers that the degree of permanent impairment of the appellant that is due to her additional use of her right shoulder to protect her left shoulder is of the order of 50%. In other words, the degree to which the appellant's permanent impairment of her right shoulder results from her injury to her left shoulder on 24 June 2003 is 6% WPI.
49. There is no evidence that she had any previous injury to her right shoulder or left shoulder or any pre-existing or any condition in those respective joints before 24 June 2003. Accordingly, s 323 of the 1998 Act is not engaged with respect to those joints.
50. There is evidence that she had a pre-existing spondylosis in her cervical spine. In the Appeal Panel's view that pre-existing condition contributes to her present impairment of her cervical spine. It is too difficult or costly to determine the extent to which that pre-existing condition contributes to her present impairment. Accordingly, in accordance with subsection 323(2) of the 1998 Act, the Appeal Panel assumes that it is 10%, which is not at odds with the evidence. Consequently, there must be a deduction under s 323(1) of the 1998 Act for the extent to which that pre-existing condition contributes to the impairment the appellant has with respect to her cervical spine.
51. Accordingly, the Appeal Panel assesses the appellant to have 21% WPI resulting from the injury on 24 June 2003.
52. For these reasons, the Appeal Panel has determined that the MAC issued on 22 September 2020 should be revoked, and a new MAC should be issued. The new certificate is attached to this statement of reasons.

I CERTIFY THAT THIS IS A TRUE AND ACCURATE RECORD OF THE REASONS FOR DECISION OF THE APPEAL PANEL CONSTITUTED PURSUANT TO SECTION 328 OF THE *WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION ACT 1998*.

H Mistry

Heena Mistry
Dispute Services Officer
As delegate of the Registrar



WORKERS COMPENSATION COMMISSION

APPEAL PANEL MEDICAL ASSESSMENT CERTIFICATE

Injuries received after 1 January 2002

Matter Number: 2740/20
Applicant: Tania Louise Roberts
Respondent: St Luke's Care

This Certificate is issued pursuant to s 328(5) of the *Workplace Injury Management and Workers Compensation Act 1998*.

The Appeal Panel revokes the Medical Assessment Certificate of Dr Robert Ivers and issues this new Medical Assessment Certificate as to the matters set out in the Table below:

Table - Whole Person Impairment (WPI)

Body Part or system	Date of Injury	Chapter, page and paragraph number in WorkCover Guides	Chapter, page, paragraph, figure and table numbers in AMA5 Guides	% WPI	Proportion of permanent impairment due to pre-existing injury, abnormality or condition	Sub-total/s % WPI (after any deductions in column 6)
1.Cervical spine	24.6.03	Chapt 4	Table 15-6	8%	1/10	7%
2.Thoracic spine	24.6.03	Chapt 4	Table 15-5	0%	-	0%
3.Left upper extremity	24.6.03	Chapt 2	Figure 16-46, 60-43 and 16-40	10%	-	10%
4.Right upper extremity	24.6.03	Chapt 2	Figure 16-46, 60-43 and 16-40	6%	-	6%
Total % WPI (the Combined Table values of all sub-totals)					21%	

Marshal Douglas
Arbitrator

Dr David Crocker
Approved Medical Specialist

Dr John Ashwell
Approved Medical Specialist

23 December 2020

I CERTIFY THAT THIS IS A TRUE AND ACCURATE RECORD OF THE MEDICAL ASSESSMENT CERTIFICATE OF THE APPEAL PANEL CONSTITUTED PURSUANT TO SECTION 328 OF THE *WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION ACT 1998*

H Mistry

Heena Mistry
Dispute Services Officer
As delegate of the Registrar

