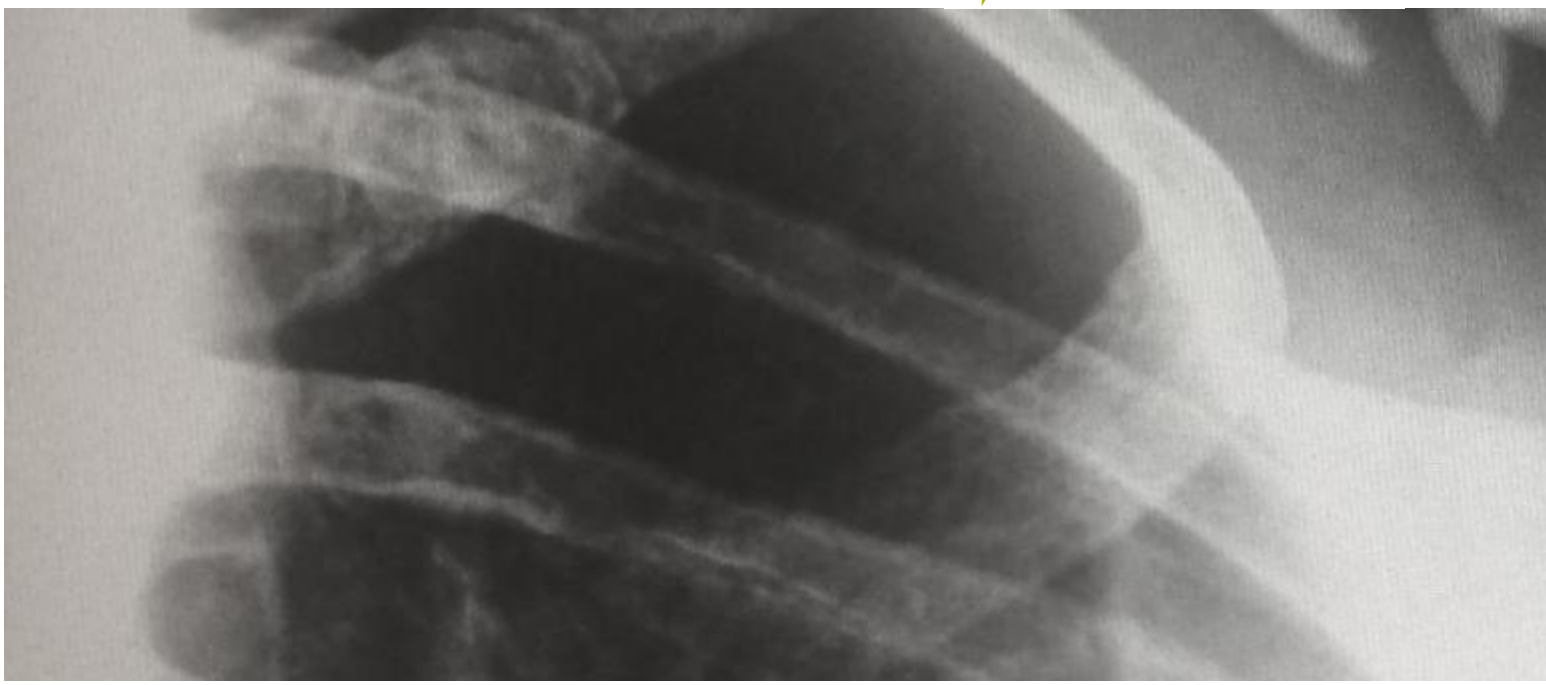

Rope Swing Not Work Related

Scott Falvey

On 7 March 2019, Commission Knight in the Queensland Industrial Commission delivered judgement in an appeal by an injured worker against a decision by the Workers Compensation Regulator (the Regulator) about whether an injury arose out of, or in the course of, employment and whether employment was a significant contributing factor to injury in novel circumstances.

Ms Geraldine Glass, a mathematics and aquatic studies teacher injured her shoulder while swinging on a rope on a school approved excursion at the Blue Lagoon in Vanuatu on 24 November 2016.

At the time she injured her shoulder, Ms Glass was employed as a teacher by Brisbane Catholic Education (the employer) at the Xavier Catholic College (the school) in Hervey Bay.

The school had a history of providing secondary students with an opportunity to travel to

Vanuatu on an overseas marine studies and cultural exchange. Ms Glass had previously volunteered to attend the Vanuatu trip on approximately six other occasions.

There were stringent planning and approval protocols imposed by the employer and the school that had to be subsisted and approved before the trip could proceed. Ms Glass was involved in some aspects of the planning and approval process. The employer allowed the trip to proceed subject to certain conditions, requirements and protocols.

On the second day of the trip a decision was made by Ms Glass and another teacher to alter the itinerary which resulted in the teachers and students travelling to the Rentapao waterfalls and the Blue Lagoon.

On arriving at the Blue Lagoon, the group discovered a rope swing which involved a person climbing onto an elevated platform, taking hold of a knotted rope, swinging off the rope over the water, and then letting go of the rope and falling into the lagoon.

Neither Ms Glass or the other teacher was aware of the rope swing before their arrival at the Blue Lagoon.

Ms Glass took a turn on the rope swing and subsequently injured her shoulder.

Ms Glass argued that her injury was “work related”.

The Regulator argued Ms Glass was “on a frolic of her own”.

The Commission found Ms Glass voluntarily decided to participate in the rope swing activity. The Commission found that she was not compelled, nor did she seek (or was granted) permission from her employer to participate in the rope swing activity.

The Commission also found that that participating in the rope swing activity did not form part of Ms Glass' work responsibilities or supervisory obligations while travelling in Vanuatu.

Moreover, it would have been very difficult, if not impossible, for Ms Glass to both supervise students and participate in the rope swing activity at the same time.

The Commission found:

> "[184] In my view, the evidence supports a finding Ms Glass made a personal and

voluntary
decision to participate in a recreational activity that fell well outside the ambit of her teaching duties and responsibilities.

[185] Putting aside the question as to whether it was appropriate, in any event, for the students to have participated in the rope swing activity, I accept that it was not necessary for Ms Glass to participate in the activity in order to supervise the students.

[186] In my view, Ms Glass has failed to demonstrate that her employment was the real or
effective cause of the injury. Certainly, it was the case that other teachers and students
were present at the time she injured her shoulder, but I am not satisfied Ms Glass was
undertaking her functions as a teacher at the time she decided to participate in the rope
activity, nor am I satisfied the rope swing activity was, for all the reasons touched on above, incidental to her work."

The decision of the Industrial Court of Queensland in Campbell v Australian Leisure & Hospitality Group Pty Ltd & Anor [2015] ICQ 016 (see YAMMER 15 June 2014) was followed and applied.

The decision of the Industrial Court of Queensland in Campbell v Australian Leisure & Hospitality Group Pty Ltd & Anor [2015] ICQ 016 (https://archive.sclqld.org.au/qjudgment/2015/ICQ15-016.pdf) was followed and applied.

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