



## Form 9C - Respondent's Statement of Facts and Contentions

Version 1

Appellant: **MARK WINTER**

AND

Respondent: **WORKERS' COMPENSATION REGULATOR)**

### Facts

1. The Workers' Compensation Regulator)(Regulator) admits the matters alleged in paragraphs 1, 2, 3, 9, 10 and 11 of the Appellant's Statement of Facts and Contentions (Statement).
2. In relation to the matters alleged in paragraph 4 of the Appellant's Statement, the Regulator admits that the Appellant was asked to attend to landscaping duties in a property in South Mackay. The Regulator, however, denies the allegation that the Appellant had a fall and injured his knee while performing his duties on 12 January 2015.
3. In relation to the matters alleged in paragraph 5 of the Appellant's Statement, the Regulator admits that the Appellant continued to work on 12 January 2015 and finished his shift. The Regulator, however, denies that the Appellant had a fall during work on that day.
4. In relation to the matters alleged in paragraph 6 of the Appellant's Statement, the Regulator admits that the Appellant attended work on 13 January 2015 and finished his shift on the day. The Regulator, however, does admit that the Appellant felt "some pain" in his knee on that day.
5. The Regulator admits the matters alleged in paragraph 7 of the Appellant's Statement, however, it denies that the pain in the Appellant's knee was caused due to a compensable injury.
6. The Regulator admits the matter alleged in paragraph 8 of the Appellant's Statement, however, the Regulator contends that the Appellant never advised Mr Sand the injury to his knee was caused during the employment. The Appellant simply said that he "had injured his knee" and that he would be "off sick for 5 days". This does not indicate the injury to the Appellant's knee is a compensable injury.

Respondent's Statement of Facts and Contentions	Name: Workers' Compensation Regulator
Filed on Behalf of the Appellant	Address: 347 Ann Street, Brisbane, QLD 4000
Form 9C	Phone No: 07 - 6398 6402
	Fax No: 07 - 3020 6309
	E-mail address: <a href="mailto:appeals@qcomp.com.au">appeals@qcomp.com.au</a>

7. The Regulator admits the matters alleged in paragraph 9 of the Appellant's Statement and also contends Mr Sand signed the Incident Report on 19 January 2015 to acknowledge only that the report had been lodged. This signature did not mean, in any way, that Mr Sand accepted that the injury occurred on 12 January 2015 while the Appellant was on duty.
8. The Regulator admits that from the records of Dr Chi and Dr Land, it is apparent the Appellant has sustained an injury to his left knee identified as a lateral meniscal tear to the left knee. The Regulator, however, denies this is a compensable injury.

### **Contentions**

9. Based on the Patient records of Dr Chi and Dr Land, the Appellant's injury to his knee is identified as a lateral meniscal tear.
10. The Regulator contends the Appellant did not sustain the injury while performing work on 12 January 2015 for the following reasons:
  - a. On 12 January 2015, the Appellant was working by himself and there is no evidence to support his allegation that he sustained the injury at work. Moreover, the Appellant continued to work and finished his shift that day.
  - b. The Appellant attended work on 13 January 2015 and finished his shift on that day all without advising Mr Sand that he had sustained an alleged injury to his knee on 12 January 2015.
  - c. The Appellant did not inform his manager, Mr Sand of any injury sustained in the course of his employment at or about the time that the Appellant is alleging he sustained the injury.
  - d. When the Appellant rang Mr Sand on 14 January 2015 and left the voice message, the Appellant had not advised Mr Sand that the injury to the Appellant's knee was caused at work.
11. On this basis, the Regulator contends that the injury that the Appellant has sustained is not an injury within the meaning of section 11 of the *Workers' Compensation and Rehabilitation Act 2003*.

### **Decision Sought**

12. That the review decision dated 7 July 2015 be confirmed.
13. That the Appellant pay to the Regulator the costs of, an incidental to, the Appeal.

Signed: \_\_\_\_\_  
 (the person signing the Statement)

Description: Appeals Officer

Dated: 1 September 2015