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Bus driver's claim for 'post-traumatic stress' turned down; B.C. Supreme Court dismisses 32-year veteran's plea for judicial review of WorkSafeBC decision

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Illustrations: Colour Photo: Ward Perrin, Vancouver Sun / Robert Hill says he feels sorry for bus drivers just starting out.

VANCOUVER - Robert Hill drove a bus for TransLink for 32 years. In the past 15 alone, he says he's been spat upon, choked, threatened with a machete and punched in the face.

Hill says the last straw was a passenger who threatened to kill him over a fare dispute. He booked off sick, claiming post-traumatic stress disorder. But the Workers' Compensation Board -- WorkSafeBC -- wouldn't pay.

The Supreme Court of B.C. agreed, and last week dismissed his plea for a judicial review.

"I'm sad. I feel very disappointed," Hill, 56, said Tuesday. "I feel sorry for a bus driver starting out today. I really do."

In his plea to the court, Hill listed six different attacks from 1991 onward, but said it wasn't until Feb. 1, 2005 that he felt he could no longer safely operate a bus.

"Could you imagine, I've been put to a point where I'm stressed out so bad I can't concentrate on driving the bus?" said Hill, who was off work for eight months after the incident. He has since worked for short periods as a bus driver, but now is on disability for back pain.

In the 2005 incident a passenger -- a man who had been in another altercation with Hill just four months before -- threatened him when he asked for the \$2.25 fare. The man allegedly said: "Do you want to settle this now? I'll knock your f-----g head off."

Hill claimed this "brought up all his emotions related to the earlier incident and his treatment by his employer," Justice Bruce Butler said in his judgment. But, he found, the incident seemed "relatively minor compared to previous traumatic episodes."

Butler supported a WCB appeal tribunal's dismissal of Hill's claim in 2006.

"The petitioner does not appear to have been in any immediate or imminent personal risk," Butler wrote. "The evidence was evaluated and it was determined that the event was one that could not, generally, be accepted as being traumatic."

He said he felt sympathy for Hill but did not find WorkSafeBC's decision rejecting Hill's claim to be

"patently unreasonable."

Hill's lawyer, David Church, said he was disappointed.

"It's one of those technical decisions where the court says that the decision of the board is not so patently unreasonable that they're going to tamper with it," Church said in an interview. "It's a pretty unfortunate result."

He said reading through his client's list of assaults while working as a bus driver is like a "war story."

"This guy, he's rock-solid. Nicest guy in the world," Church said. He hadn't yet discussed a further appeal with Hill, but said it will be considered.

Donna Freeman of WorkSafeBC said she couldn't comment on the claim, but said it was clear that the court's decision supported WorkSafeBC's own findings.

She noted that Hill went through two levels of appeal before going to court -- first to the WorkSafeBC review division and then the WCB appeal tribunal.

"Essentially we adjudicate all claims based on law -- the Workers' Compensation Act -- and the claim decisions have to be made in accordance with law and policy," Freeman said. "I guess my response would be the court agreed that WorkSafeBC applied the law appropriately."

Steve Sutherland, president of the bus drivers' union, CAW Local 111, said assaults on bus drivers get worse every year. Last year there were 243 assaults, ranging from spitting to hitting, he said, up from 183 the year before. Just last month a driver was severely beaten after asking for proof of fare.

These attacks are stressful for the drivers, he said, especially going back on the job. "It's a fear that they get, especially when they go back out there and they have to go back to work again," said Sutherland.

Hill says he no longer feels safe.

Besides suffering from emotional distress, Hill said he has impaired vision and a stainless steel plate in his head, the result of a kick by a passenger more than 15 years ago.

"Do you know how easy it would be for someone to walk up and punch you right in the head while you turn the corner at Kingsway and Main Street?," Hill said. "It's so easy."

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