



**The Lion, the Witch & the
Wardrobe
AKA
*Disability benefits, claims
assessment and pension fund
trustees***

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Occupational disability benefits

A few contractual terms

- Lump sum - total and permanent disability
 - Own occupation / regular occupation / own or similar / own or suited / any other occupation
- Income benefits – temporary / total disability
 - Own occupation / substantial and material part of duties (own occupation or own job at own employer)
 - 24 month own occupation period
 - Reasonably suited / could become suited after 24 months
- Knowledge, training, education, experience, ability and age

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Forensic Fables

Fable One

- Migration from full-time to part-time work – loss of earnings benefit application
- Declined claim:
 - ‘nothing had changed’
 - pre-existing condition clause applied
- The real facts were quite different
 - lack of understanding of the evidence
 - missed the onus on the insurer
- Paid on appeal after engaging attorneys and claims specialist
- Earlier resolution may have been possible



Fable Two

- Lump sum benefit
- Technical matric – low level technical job
 - 23 years of working - no further education
 - no career advancement – same job 17 years
- Dominant hand injury
- Declined claim – repeatedly over 2 years:
 - could do another occupation
 - had not reached MMI
 - case management
- Arbitration settled the matter two-and-a-half years later



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Potholes

Three categories of potholes

- Policy wording
 - NFOSA – courts – accessible case law
- The proper weighing and balancing of evidence
 - *‘Consider the hard evidence that you have in your possession viewed against the backdrop of a court.’*
- Failure to recognise the need for assistance
 - Medical and legal



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Dispute resolution

Dispute resolution options

- Internal claims appeal processes
- Internal Ombudsman / Arbitrator ***
- Mediation
- NFOSA
- External arbitration
- Litigation



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A few suggestions

What might be possible ...

- Claims specialist input on choice of benefits
- Liaison / processes with HR on claims submission
- Escalation process on declinature of a claim
- Annual claims review – audit
- Invest in discussion with the employer
- Engage experts



An interesting read

**PWR
and
Discovery Life Limited
Genesis Advisory Services (Pty) Ltd**

P.W.R v Discovery Life Limited and Another (17/18098) [2023] ZAGPJHC 282 (31 March 2023)

THANK YOU

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