

# My Story

*"My injury claim was not handled by officials with due diligence, integrity and the level of competence and professionalism a valued employee would come to expect while employed with a company that claims to be professional and place emphasis on protecting their employees' rights, safety, health, and well-being in their charge."*

*"Professional Companies with moral standards and code of ethics that are recognized within a association for being a leader in their industry and from government as a well-respected and trusted company to work for do not make excuses when they do wrong instead they take responsibility for their actions, make right by following the same professional high standards for which they claim to be leading by example and uphold in the industry they represent as a role model and wish to leave behind a proud legacy for the next generation of companies and professional drivers to follow and be remembered for."*

*"Your character is what you do when no one is looking. It is driven by virtues like honesty, respect for others, reverence for the law. The company, I believe, has demonstrated a lack of these virtues."*

Bob Siluch

**I was a victim of Employment Standards and Human Rights abuse after reporting a work-related injury while employed in the Alberta Trucking Industry as a Professional Driver.**

I was actively employed by a professional trucking company from 1994 -1996.

It was founded in 1947 in a small rural town in Alberta by four founding fathers and was built on a proud history of family principles and values reflecting that employees were a part of the company family and where treated with dignity and respect and represented Alberta and Canadian pride including the United States of America.

I believed that at the time I was hired, I would have a promising future to grow within the company that claimed to set a professional standard as a leader and representative of the industry and its respected members and setting an example for others to follow as a role model.

On October 29, 1994, after I had completed the required 3 months' probation period, I received a personal letter from the President welcoming me to the company.

After receiving numerous awards and recognition from the trucking industry, respected members and the *Alberta Motor Transportation Association (AMTA)* for setting an example for being a leader in the industry, and from the Federal Government of Canada on January 19, 1995, as one of Canada's 50 Best Private Companies and a well-respected and trusted company to work for.

I felt that this company would be where I would build my career.

While working for this professional company and contributing my driving skills and professional attitude, I believed I was in fact, driving for a professional company, which carried itself with pride, integrity, and is loyal.

My understanding was they would look out for the rights, safety, health, and well-being of their employees, and ensure that employees suffering from an injury (caused by work or not) would be treated with equality, dignity, fairness, honesty, respect and receive open, frank communications and support.

During my employment, I received from senior officials' awards and recognition for being a valued employee, and for my job performance and contribution to the growth of the company.

I had a strong sense of pride and self-respect when wearing their uniform, and felt like I was part of the family.

I placed my trust in the belief that drivers' rights, safety, health, and well-being on the job mattered to this company, its departments, and senior officials.

Before being hired, I was a 31-year-old, highly motivated, and productive individual and a dedicated hard-working employee that was in exceptional top physical condition.

Having just completed a Forest Technician Program that included Wildland Firefighting Training that met the standards for the Alberta Wildland Firefighter Employment Program, I was prepared to work hard.

During these 8 months of intense training, I had achieved a top fitness award of 97% along with a 100% Attendance Record.

I had also received recognition from the college for being an asset to the program and from previous employers in the trucking industry for being a dependable professional driver with outstanding job performance reports.

As acknowledged, I have strong work ethics and integrity without question.

All this changed on August 28, 1995, when I had reported a work-related back injury after seeking medical attention and I was not permitted by company officials' to report the injury to the Workers' Compensation Board (W.C.B.) despite my specific request to do so, and despite the clear connection between my injury and the heavy physical demanding job duties as a professional driver in their charge.

On February 29, 1996, (6 months) later the Operations Supervisor outlines to the company's Insurance Provider for the first time providing a partially accurate account of my daily job duties as city driver consisting of Driving/Physically Loading and Unloading 75% of the time, Driving and Sitting up to 2 hours, standing up to 6 hours.

On September 10, 1998, (3 years and 2 weeks) and after my termination of employment on October 18, 1996, the Claims Co-ordinator Compliance and Safety Department provides to the Workers' Compensation Board investigating my back injury for the first time a copy of my daily job duties prepared by the same Operations Supervisor providing only a general job description of the division's highway drivers daily duties consisting of 70 hours per week, frequent lifting, pushing, and pulling above 100 lbs and stating: *"he was instructed not to report to the Workers' Compensation Board because the incident was not work-related."*

However, the Operations Supervisor, at this same time fails to fully disclose the true nature of my job duties that I performed on a regular daily bases within city limits commencing on the first day of employment from July 29, 1994, to August 28, 1995, when I first reported my work-related back injury to both this Operations Supervisor and a Senior Official.

Documents submitted supports there is a clear contradiction between what was first reported to the company's Insurance Provider regarding my daily job duties as a professional driver and what was submitted to the Workers' Compensation Board for the first time by the Claims Co-ordinator Compliance and Safety Department completed by the same Operations Supervisor 3 years and 2 weeks later.

As confirmed by the Claims Co-ordinator Compliance and Safety Department and Operations Supervisor submitted documentation, my workdays were extensive.

Consisting of 15 hours a day in the city on average, and taking into consideration the physical demands of lifting and moving heavy loads by hand, it was excessive without a doubt.

This is also supported by a Driver's Daily Log Book which is a requirement of a professional driver in the trucking industry to ensure accountability and safe operation of both driver and vehicle and a copy is held on record by the employer as required.

As evident scheduling did not provide for adequate meal breaks and rest periods in-between shifts that resulted in no personal time to recover from mental and physical fatigue or maintain a personal exercise and fitness routine after one's shift.



There was also more than adequate and objective medical evidence supporting that my back injury is work-related including the company's admission to their Insurance Provider on August 30, 1995, that my back injury is a direct result of my employment duties as a professional driver and after I had first reported my injury to the operations supervisor and senior official, and is confirmed by the Attending Physician, Medical/Specialists Reports X-Rays and CT/MRI Scans thereafter.

For that reason, it was particularly difficult to see this company's Claims Co-ordinator Compliance and Safety Department acknowledge in **May 1998** that back injuries are a recognized high-risk occupational hazard for professional drivers in the industry while accounting for **63-Claims in 41 Months** among their professional drivers and make claim to being an industry leader on the issue and envisioned themselves as a role model and setting on employee safety and an example for others to follow.

**I believe the following violations of my rights did occur during my tenure of employment as a professional driver with this company:**

Violation #1

The company would not permit me to report my injury and incurred medical expenses to the Workers' Compensation Board when I had reported it to the operations supervisor and a senior official after first seeking medical attention. I was instructed not to report it.

Violation #2

The company confirms that my back injury is, in fact, work-related however, chosen to defy the Workers' Compensation Board Act by failing to adequately report the injury and incurred medical expenses as required.

Violation #3

The company Human Resources and Compliance and Safety Department personnel fail to provide the necessary assistance in helping me understand the rules under the W.C.B. Act, Employment Standards and Human Rights Act as an injured worker in their charge.

This is also in clear violation of the company's moral standards and code of ethics on treatment towards employees and protecting their rights as valued members of the company.

Violation #4

The company fails in reporting their version on modified duties they had me perform on January 4-7 1996 and provided no supporting documentation including the required written medical approval from my family physician and report it to W.C.B. and the company's Insurance Provider as required, with no pay and fails in their duty to accommodate for my hearing impairment when performed.

Violation #5

The company had me submit to drug testing while on approved supervised medical leave.



## Violation #6

Termination of Employment while on medical leave seeking appropriate treatment as instructed by my family physician and receiving disability benefits from the company's Insurance Provider.

My experience has demonstrated the opposite and brings into question this company's mandate/policy and leadership/mentorship role and a representative of the trucking industry and its respected members as a role model on how professional drivers are treated in this demanding industry and at often a harsh environment.

At the beginning and throughout my approved supervised medical leave and seeking appropriate treatment my rights as an injured worker were never explained nor written documentation provided to me by the company departments or senior officials to give a clear understanding of how this process works.

While on the company's Employee Group Long Term Disability Plan (Effective March 02, 1996 - March 2, 1998) and in an Approved Rehabilitation Program (August 1 - December 10, 1996) intended for me to return to the company with modified duties once completed and following my family physician's instructions as required my employment was abruptly terminated unexpectedly via a telephone conversation on October 18, 1996, in a most callous and unprofessional manner.

The company fails to honour this agreement with their Insurance Provider and fulfill its legal and moral obligations to me as an injured professional driver and valued employee in their charge.

Instead of support and encouragement, I encountered obstacles, ridicule, and an undermining of my intelligence to the extent that I was no longer made to feel welcomed within this organization as a team member and in the end, for being injured as a result of my daily job duties I was treated as an outcast by company officials.

This had a severe negative impact on my personal life and made the work-related back injury more difficult to deal with.

Despite maintaining regular contact with key company officials, I was informed that company officials had a hard time getting in touch with me. This is not true.

I believe the company fails in all responsibility they have as an employer to protect the best interests in the process of an injured worker and valued employee in their charge.

I was told at the beginning by company officials' that the long-term disability policy that I was placed on would provide me with comparable benefits as W.C.B., but that was not accurate.

For example:

- It does not cover 90 percent of net earnings including overtime;
- Benefits were not indexed for inflation. Each year I receive less in real money. I am living below the poverty line;
- I have not received any effective treatment nor retraining;

- There is no coverage for permanent partial disability benefits;
- No coverage for expert medical reports or specialist examinations;
- There is no coverage for certain out-of-pocket medical expenses;
- There is no coverage for standard rehabilitation and preventative treatments.

Before the termination of my employment (without just cause and no supporting documentation), I was never provided with an opportunity to consider any legitimate modified work duties and with approval from my family physician as required in all disability policies.

This is a legislated requirement under the Alberta Employment Standards and Human Rights Commission Act, and that the same obligation applied during my employment and thereafter.

I believe that once I had been accepted on the long-term disability policy, the company forgot about its ongoing obligations to me.

That caused me to file a complaint with the Alberta Human Rights Commission.

My complaint:

- 1). I was deterred from filing a claim with W.C.B. by my employer when the injury was reported;
- 2). Employer fails to report the injury to W.C.B. as outlined in the Act and is required by law;
- 3). I was harassed, disciplined, had to submit to drug testing and was humiliated in front of others;
- 4). Harassment by my employer while on disability regarding my treatment, rehabilitation plan;
- 5). Mail including disability checks that were sealed and addressed to my residence went through inter-office mail from head office to divisional office, it was then opened and photo-copied by officials, I was present at the time this occurred. I was not consulted before nor did I permit this action;
- 6). My employer made unfounded allegations that I was harassing a fellow employee;
- 7). Verbal Termination of Employment while on disability leave;
- 8). Lack of direction, support, and fulfilling legal responsibilities from company officials.

My complaint was upheld and the Alberta Human Rights Commission did conclude that the termination of my employment was based on my physical disability.

It recommended that I receive damages for the breach of my human rights.

In my opinion, I was treated unfairly following that report and it was only after I filed my complaint that company representatives appeared to (for a short time) take my concerns seriously.



The impact of all of this on my health and well-being has been enormous and my standard of quality living continues to deteriorate, my ability to deal with my ongoing medical condition worsens and challenging.

I live daily with chronic pain resulting from Extensive Lumbar Muscle Dysfunction and Ligament Damage with Nerve Impingement, affecting my legs and toes and suffer from sleep deprivation and have limited mobility.

This is supported by medical evidence, specialists' reports and acknowledged by my employer (Lumbosacral Disc Herniation Left Side) and in the company's Monthly Newsletter (May 1998).

I have been forced to make an early withdrawal of my RRSP savings and take out a Personal Bank Loan to meet my daily living expenses.

I also receive a CPP Disability Pension, which in return is deducted from my monthly disability pension incurring further financial hardship.

This would not have been the case had I been on W.C.B. benefits.

It has been over 25 years since first reporting my work-related back injury on August 28, 1995, and now at the age of 56 my disability continues and the company's Group Long Term Disability Policy acknowledges this with monthly disability benefits and continues to deduct my CPP Disability Benefits.

My income falls below what the provincial AiSH program provides, and I am left to rely on the largess of family members to ensure that I have a safe place to live.

Perhaps most worrisome is that the benefits I receive under the long-term disability plan will terminate when I turn 65 and I have no retirement savings and no prospects of new employment. I am screwed!

My situation will only deteriorate over time and I will be unable to become independent from family members for support.

My reason for coming forward with my personal experience is I hope that by sharing this experience with fellow veteran professional drivers and the next generation of professional drivers who are setting their sights on the trucking industry as a livelihood they will benefit from and share with others to help educate and prevent what has occurred to me personally to not be repeated to others.

This experience is not pleasant by any means as some would like to believe.

No injured worker (as demonstrated in my case) deserves employment standards and human rights abuse and violations from their employer regardless of occupation or the industry they are employed in.

Workers endure challenges and obstacles every day while fighting for their rights of equality, fairness, honesty, transparency (Full Disclosure), protection, and being treated with dignity and respect after reporting an injury because of their employment duties.

I believe this unprofessional behavior must be confronted and exposed publicly and raising awareness of employment abuse is the key to force change in this industry.

My experience of an employer who appeared to blatantly disregard all government acts and regulations and from August 28, 1995, thereafter, was totally unsupportive of my situation, is an example of how these kinds of actions can have a profound and long-lasting negative impact on one's health and well-being, one's quality of life, family life and social life with friends, and from earning a Gainful and Productive and independent living with financial security for your future.

In my opinion, injured workers should not have to endure this type of abuse from the Workers' Compensation Board, Employment Standards, Human Rights Commission and an Employer and it's Human Resources and Claims Co-ordinator Compliance and Safety Departments and most certainly not from a government agency especially with the Workers' Compensation Board that is intended to protect the worker, be fair based on unbiased medical evidence, occupation, daily job duties and hours performed and pre-employment (pre-injury) status as supported in my case.

I believe an Independent 3<sup>rd</sup> Party is needed to oversee equality, fairness, honesty, and transparency (Full Disclosure) without employers, the trucking industry, and respected members or provincial government influence and hold those accountable to face severe penalties for violation. No exceptions!

The federal government is also needed to work side by side with this Independent 3<sup>rd</sup> Party to monitor inter-provincial trucking companies such as the one I was employed with to ensure full compliance of these Acts and Regulations including enforcement with severe penalties for violations as outlined;

A). Worker Safety;

B). W.C.B. protocol including reporting incurred medical expenses, loss of wages from work including overtime and modified duties.

**To summarize my experience, I was a victim of Employment Standards and Human Rights abuse:**

- 1). Company officials would not permit me to report my injury and incurred medical expenses to W.C.B.;
- 2). Company officials went out of their way to avoid accountability and accepting their responsibility by first not reporting the injury to W.C.B. then denied knowledge of it being work-related when questioned;
- 3). The company had me return to work to perform modified duties (without pay) and without written medical approval from my family physician as required, fails in their Duty to Accommodate for my hearing impairment and made several more attempts thereafter, without reporting to W.C.B. and their Insurance Provider at the time and later denied knowing this when contacted in writing. (Ref: February 29, May 9 & June 13, 1996)

All in violation of Disability Policies, Government Acts and Regulations, Employment Standards, Human Rights Commission and Workers' Compensation Board Act and the company's Employee Group Long Term Disability Policy that is intended to protect the injured worker's rights including pay while on approved supervised medical leave in full compliance of the family physician's instructions and seeking appropriate treatment with a return to work program on modified duties if required with mandatory supervision and only after receiving the required written medical approval to ensure the worker's safety, health and well-being are taken into account.



On November 15, 1995, the operations supervisor made attempts to have me return to work and deliver a load within central Alberta claiming "*we are short a driver*". (I refused)

On March 11, 1996, I was instructed by a senior official to call the same operations supervisor every Monday morning claiming it is a company requirement and to see what needs to be done around the office in the evenings after 5 pm and was also expected to work on Saturdays and Sundays all this after hours when closed for the weekend (without pay), without being specific and with no co-workers present creating an unsafe working environment. (I refused)

Also, it could include delivering loads, with no written medical approval from my family physician, and without supporting documentation for a back to work modified duties plan from their Insurance Provider instead, claiming it is modified duties (without pay) and is approved by the company.

Not only did company officials knowingly violate my rights and recklessly put at risk my safety and disability coverage but also my co-workers, the public's safety and the company at further risk for liability if they had they been successful in having me return to perform duties including driving and my back injury worsened or had I caused an accident due to my medical condition when I was not medically and physically capable of doing so as they would have me believe. (Lumbosacral Disc Herniation Left Side)

Without the required written medical approval and mandatory supervision from my family physician, this was all in clear violation as outlined above and very unethical coming from a professional company.

4). Termination of Employment while on approved supervised medical leave receiving disability benefits and in full compliance of my family physician's instructions and seeking appropriate treatment and in an approved rehabilitation program intended for me to return to work on modified duties once completed as confirmed by their insurance provider. (Ref: January 31, 1997), (There was no documentation to support Termination of Employment at the time),

5). Company department personnel and senior officials had confidence in knowing that our provincial government and elected officials would not intervene at any time and uphold the law to protect the rights of an injured worker as was written in the Government Acts and Regulations including the W.C.B. and Employment Standards and Human Rights Act.

Most notably after W.C.B. officials became aware during their investigation that the company had acknowledged on August 30, 1995, to their Insurance Provider that my injury is: "*Yes work-related*" and "*Not entitled to W.C.B.*"

A Workers' Compensation Board *Day of the Injury Report Claimant Form* was not registered by myself until May 9, 1996, as instructed to do so and is 9 months after I had first reported my work-related back injury to an operations supervisor and senior official on August 28, 1995, and I was not permitted to report including incurred medical expenses at the time as a requirement in the Act.

The company's Claims Co-ordinator Compliance and Safety Department acknowledge in a Monthly Newsletter in May 1998 having 63-Back Injury Claims in 41 Months among their professional drivers in their charge came to their conclusion based on their investigation and after failing to report supporting

medical evidence had determined in their personal opinion that my back injury is not work-related. (Ref: September 10, 1996, January 26 and June 1, 1999)

The Human Resources Department, however, admits to the Alberta Human Rights Commission in writing on November 12, 1997, that I came in to perform modified duties, however, fails to mention they did so without pay, fails in their duty to accommodate for my hearing impairment and did not report it to their Insurance Provider and the Workers' Compensation Board when requested at the time as a requirement and, without providing supporting documentation including the required written approval and supervision from my family physician. (Ref: February 29 and June 13, 1996)

Submitted documents support this occurred after company officials fail to adequately report my work-related back injury to the Workers' Compensation Board including incurred medical expenses as required and instead, directed to their Insurance Provider. (Ref: October 10 and 11, 1995)

Company officials are well aware the Employee Group Benefits Plan does not cover out-of-pocket medical expenses and is not equal to the Alberta's Workers' Compensation Board coverage as they claim for an injured worker and I was lead to believe and was in clear violation of an employee's rights under all Government Acts and Regulations and most notably the Workers' Compensation Board Act.

This is also a violation of the company's moral standards and code of ethics on respecting employees' rights and the *"professionalism and high standards"* and *"family principles and values"* in which they claim to have and uphold since the company was founded in 1947 by four founding fathers from a small rural town in Alberta.

### **Preventative Measures**

How to avoid becoming a victim of employment standards and human rights abuse:

Immediately after seeking medical treatment for your work-related injury and reporting to your employer, their Insurance Provider or the Workers' Compensation Board retain a Employment Lawyer for services and guidance in how the process works in protecting your rights and what your employers responsible is.

Do not put your trust in the belief (as I did) that your Employer, their Insurance Provider, or the Workers' Compensation Board will ensure that your rights are protected or offer any assistance to help you to clearly understand how the process works.

- Maintain monthly appointments with your family physician and specialists where required and is a requirement in all disability policies;
- Prescription Medications and all related receipts including travel expenses if applicable, Approved Rehabilitation Plans and Return to Work Plans with Modified Duties (with pay) including a return date;
- Keep extra copies of medical and treatment expenses;
- Ask for copies of all completed Patient and Medical/Specialists Reports including Blood Test results X-Rays and CT/MRI Scans (This is your right);



- All correspondence including emails, fax copies, long-distance phone bills if applicable, all letters including handwritten notes received regardless how insignificant it may appear to you and sent out all letters via Registered Mail requires a signature upon delivery for your records;
- In my case, I was able to provide copies of my Resume, Pre-Employment (Pre-Injury) Status documents including a fitness award, and a Daily Driver's Log Book during my employment before becoming injured to support that my back injury and is without a doubt work-related and documented as a result of my occupation as a professional driver with this company regardless of what I was lead to believe by officials at the time and throughout this process;
- I was also able to provide a copy of a personal letter from the President of the company confirming that I had completed the required 3 months' probation period on October 29, 1994, received awards and recognition for being a valued employee, and for my job performance and contribution to the growth of the company thereafter;
- Be Diligent, Be Proactive;
- Maintain a Daily Journal making notes of dates and times of all phone calls including long-distance phone calls and the person's name, title and what the conversation is about, meetings and medical appointments;
- As outlined above establish a paper trail along with perseverance is the key to building a solid case in protecting your rights as an injured worker and securing your disability claim if you are unable to return to any type of employment including a letter from your bank if applicable supporting financial hardship due to your injury. (Make 2 extra copies of everything for safekeeping);
- Disclosing all this documentation only to legal counsel trusting no one else.

All this is proof that you are in full compliance as required in the Insurance Policy and outlined in all Disability and Government Acts and Regulations including the Workers' Compensation Board Act and following your family's physician's instructions and seeking the appropriate treatment as required.

Educate yourself by researching the Employment Standards and Human Rights Act, the W.C.B. Act and/or the company's Employee Group Long Term Disability Policy, Gainful and Productive Employment, Employers Duty to Accommodate with Modified Duties (with pay) if required and must also include Rehabilitation and Return to Work Plans, Pre-Employment (Pre-Injury) Status, and Occupational Functional Capacity Evaluation and Vocational Assessment which must include the required written approval from your family physician and no one else as officials would like you to believe.

Your family physician's most vital role as the primary physician is protecting your safety, health, and well-being in providing a written medical approval and supervision of treatment and returning to work on

modified duties if required and with mandatory supervision after an injury or with a pre-existing permanent injury as in my case and where retraining is required for a different occupation this is also mandatory in all Disability Policies and Government Acts and Regulations and is recognized in the law courts.

Not only is this mandatory under the W.C.B. Policy and the company's Group Long Term Disability Policy, but this is also a requirement in the AiSH Disability Act, Canadian Disability Act, CPP Disability Act, Employment Standard, and Human Rights Act and is intended to protect your safety, health, and well-being and from re-injury or making your injury worse and hindering recovery efforts and arranged only by your family physician!

This also needs to be done via legal counsel to ensure equality, fairness, honesty, and transparency (Full Disclosure) and provide documentation outlining Employer and Employee Responsibilities'.

Do not allow your employer, department personnel, or officials to delegate their responsibilities and any unseen problems (intentional or not) that arise on to you as demonstrated in my case; this behavior is completely unacceptable and unethical especially in this professional and demanding and often a harsh environment!

This arrogant attitude from a respected member of the trucking industry claiming to represent and be a role model for others to follow must, in my opinion, to be confronted in the law courts if necessary as this is unacceptable and your trust has been misplaced in ensuring that your rights are being protected as an injured professional driver on approved supervised medical leave from your job duties while following your family physician's instructions!

Throughout this process, you may (as demonstrated in my case) encounter roadblocks that would include undermining your intelligence from officials in having you return to work (without pay) before you are medically fit and able to and without the required supporting documentation including medical approval and mandatory supervision from your family physician as outlined above.

Officials will most likely try to deceive you (as demonstrated in my case) knowing very well they are intentionally violating your rights and jeopardizing your safety and disability coverage and will not be upfront and honest in disclosing the rules or claiming you are a malinger for not returning to work.

They are not likely to be fair in providing you the information you required to assist in your recovery efforts as I experienced in my injury claim. I was on my own.

Not to mention putting your safety at risk of re-injury then washing their hands off of the responsibility they have to you after returning to work without the required approval and supervision from your family physician.

Also, research and discuss with legal counsel regarding 3<sup>rd</sup> Party Independent Medical Examinations (IME) including a written informed consent form with transparency (Full Disclosure) and your right to having an observer present during the exam as outlined in the College of Physicians and Surgeons Guidelines for Medical Examinations by Non-Treating Physicians (NTME's) and of your legal consults choosing of an independent physician.



The College of Physicians and Surgeons Guidelines also states that an Independent Medical Examination (IME) requested by a 3<sup>rd</sup> Party is only an opinion and is not intended to give medical approval, treatment or determine if you are medically fit and able to return to work in any capacity or replacing your family physician's authority as your primary physician who is solely responsible for your overall care.

For precautionary measures see your family physician including having tests done before and after an evaluation or examination and take notes most importantly of any changes to your condition afterward especially if your injury worsens and or you are re-injured and provide to legal counsel.

Before agreeing to participate in a 3<sup>rd</sup> Party Evaluation and or Examination do not sign anything until first contacting legal counsel to review all documentation including any concerns provided in writing by your family physician to ensure that your safety is protected and hold those accountable (in writing) if your injury worsens and or you are re-injured during this requested evaluation and or examination as noted in my case.

After showing up to participate as a requirement in all disability policies do not allow anyone to convince you otherwise by claiming it is only optional and you can choose to opt-out of and thus occurs after they refuse to sign a liability letter prepared by your legal counsel ensuring your rights are protected.

Those requesting a 3<sup>rd</sup> Party Evaluation and or Examination are solely responsible for your safety while on their premises, in their temporary care, and during these independent tests.

This is nothing short of a manipulative tactic to undermine your intelligence intended on jeopardizing your disability claim then later claiming you had refused to co-operate and participate.

Immediately contact legal counsel and request instructions on how to proceed.

### **Return to Work Guidelines**

For you to return to work with or without modified duties you must have the required written medical approval from your family physician (no one else) and with mandatory supervision to ensure that your safety, health, and well-being of your injury is not being made worse, hindering your recovery efforts and risking re-injury and not from your Employer, Insurance Provider, Workers' Compensation Board or their Independent Medical Doctors' (NTME's) opinions as officials would like for you to believe.

Before returning to work or seeking a new employer with a medical condition or pre-existing and permanent injury your family physician and or legal counsel most likely will request an Independent Medical Examination and an Occupational Functional Capacity Evaluation and Vocational Assessment to determine your capabilities and limitations and must be documented, it is in your best interests to fully cooperate.

Discuss with legal counsel the obligations you now have in disclosing in writing to a potential new employer any medical condition or pre-existing and permanent injury that requires Duty to Accommodate with modified duties when or if you can return to employment in any capacity!

This is a requirement. This is your responsibility. Do not negate or take this lightly!

Willing to return to work (without pay) and without supporting documentation as officials may try to have you believe or convince you (as demonstrated in my case) is not the same as being medically fit and able to return to work (with pay) and only after receiving the required written medical approval with mandatory supervision from your family physician and reviewed and approved by legal counsel.

Just another manipulative tactic intended to undermine your intelligence and violate your rights by officials including trying to convince you that nothing is preventing you from returning to work or accusing you of not willing to return to work and threatening to terminate your disability benefits for not cooperating with their “sincere efforts” in assisting you is nothing short of belittling and fear imposed tactics on to you and is without just cause and illegal.

This is also in violation of all Disability Policies and Government Acts and Regulations including the failure in their responsibility as an employer to uphold and protect your rights as an injured worker.

The company’s Human Resources and Claims Co-ordinator Compliance and Safety Department personnel, officials, the trucking industry and respected members are fully aware of all the above-outlined Government Acts and Regulations and Employee Group Long Term Disability Policies that are intended to protect the injured worker while on paid approved supervised medical leave and following your family physician’s instructions and seeking appropriate treatment including medical specialists as a requirement.

It is their job to know these Government Acts and Regulations including the Workers’ Compensation Board Act that are written and intended on protecting the rights and safety of the worker/professional driver in their charge there is no excuse for them not too!

Never accept verbal instructions from your Employer, Insurance Provider, or the Workers' Compensation Board.

Get it in writing and first approved by your family physician and legal counsel!

### **Most Importantly throughout this process**

1). Manage yourself accordingly, Be Polite and Cooperative, Maintain your Composure at all times, Stay Calm, Stay Focused, Stand your Ground, Stay Positive and be Patient knowing with confidence, in the end, the truth will prevail in your fight against this type malicious behavior and injustice from not only an abusive employer in the industry you are employed in but government agencies and elected officials that fail to enforce the rules and protect your rights as an injured worker or professional driver as in my case.;

Don’t give anyone a reason to turn your attitude against you and terminate your disability benefits.

2). Never under any circumstances agree to participate in a 3<sup>rd</sup> Party Independent Medical Examination (IME), Rehabilitation and Occupational Functional Capacity Evaluation and Vocational Assessment or a Return to Work Plan arranged by W.C.B. or the company’s Insurance Provider without first seeking guidance from legal counsel discussing your rights and who is liable if you are re-injured while in their temporary charge and on their premises;

It is your right to legal counsel you cannot be denied this and legal counsel must protect your best interests and rights during this process. Do not fall for any of their manipulative maneuvers!



- 3). Always ask questions and take notes of the conversation;
- 4). Do not sign anything and always first get a copy of the agreement in writing;
- 5). Discuss only with legal counsel to ensure of Informed Decision and Informed Consent.

This also includes accepting an apology or sign any settlement offer or agreement with the company, Insurance Provider, or via the Workers' Compensation Board or other Government Agency Federal or Provincial.

As previously mentioned, educate yourself by researching and understanding the terms:

Definition of Disability, Gainful and Productive Employment and Employers Duty to Accommodate with Modified Duties (with pay) if required and all your rights related to you as an injured employee while on approved supervised medical leave.

Be prepared with guidance from legal counsel for the possibility of a long road ahead in protecting your Integrity and Rights as no doubt you will certainly encounter roadblocks from your Employer, Insurance Provider or W.C.B. (as demonstrated in my disability claim) as officials will likely make it challenging for you to your entitlement of disability benefits by the Government and W.C.B. Acts and Regulations or the company's Employee Group Benefits Plan.

### **Protecting your rights as an injured worker**

Stand your ground to the end with Confidence having the Knowledge of your rights on hand, stay in the Fight, Refuse to back down, and be sure to always question department personnel and senior officials.

In my opinion, even if it resorts going to the law courts and challenging your employer's professionalism and commitment to safety and upholding and protecting the rights of all their employees/professional drivers in unforeseen circumstances.

Calling out the Alberta Trucking Industry and its members by name in public if necessary or in any industry, you are employed regardless of occupation.

Put their claims of integrity, and loyalty they have for their employees and the company's received awards and recognition for professionalism against your supporting medical documentation/specialists reports and received awards and recognition for having strong work ethics, integrity and being a valued employee including before being hired by the company as demonstrated and supported in my claim.

Have your voice heard and your story told in public for others to benefit from in exposing the truth and raising awareness to help protect employees/professional drivers in an industry that it claims to be professional and promotes safety and looks out for their employees' health and well-being and considered you part of the family before reporting a work-related injury as demonstrated in my case.

Perseverance is the key, Do not give one inch to any department personal or official, just as I have demonstrated in my disability claim while maintaining my dignity and integrity as a decent person.

## Closing Statement

The mission statement of the company as outlined where I was employed at focused on *"our original family values of respect, integrity, and loyalty"* (these same core values and principles my parents had raised me on) and is clearly stated on numerous occasions in monthly newsletters that this company took great pride in *"listening to our people"* and *"we place a lot of emphasis on family."*

However, as an employee, I experienced none of the above instead I was no longer made to feel welcomed within the *"family"* and was treated as an outcast by company officials after reporting my work-related back injury and unable to perform my regular daily job duties as required when hired.

I consider myself a professional driver and endeavored to be a part of the company's proud heritage while maintaining a professional level of service and corresponding attitude while wearing their uniform with pride.

My personal experience at the time was that this professional trucking company made no effort to educate their drivers in preventing back injuries, and offered no support once an injury occurred.

When I first reported my work-related back injury to the operations supervisor and a senior official on August 28, 1995, and during my disability to department personnel as demonstrated in my case company officials' has shown defiance of their standards of professionalism and the rules outlined in the federal and provincial government acts and regulations and the AMTA guidelines.

I was denied my legal right as an injured worker to fill out and submit a Workers' Compensation Board *Day of the Injury Report Claimant Form* when requested and is intended to protect the worker's rights including coverage for wage loss including overtime, incurred medical expenses, rehabilitation and retraining something the company's Group Short and Long Term Disability Policy does not cover.

I was also denied the opportunity to address my concerns with officials and no one was willing to listen, I was bullied, harassed and my employment was ultimately terminated while on paid leave in a most callous and unprofessional manner via telephone conversation while on approved supervised medical leave in full compliance seeking appropriate treatment under my family physician's care and following the company's Employee Group Disability Policy as required. (*"You can always count on family"*)

I sincerely feel that it is the responsibility of the employer and the trucking industry and respected members to review government employment standards, occupational health, and safety regulations and provide in writing transparency (Full Disclosure) and take a serious approach to improved safer working conditions and employment-related injuries.

The benefits of increased productivity and eliminating the loss of qualified drivers would be enormous.

Reductions in the occurrence of back injuries would eliminate the effects of depression, low self-esteem, and the stress of financial hardship on the employee and the corresponding negative impact on family and friends and the additional cost to taxpayers if one is forced to be dependent on the public social system with no hope for recovery due to lack of medical coverage and offers no rehabilitation/retraining program.



### **In my case as a Professional Driver**

The company has ceased operation in 2010 and did demonstrate to the public the reason why there is a dire need to form an Independent 3<sup>rd</sup> Party to monitor, review and hold accountable the trucking industry and respected members in Alberta when it comes to reporting all work-related injuries, how employees/professional drivers are treated in their charge and how each claim is handled on a case by case basis by company officials and government agencies and not allow employers to have their standards and set the rules they choose to follow instead of Government Acts and Regulations as demonstrated in my case.

Employers and the entire trucking industry must provide effective education to their professional drivers in helping to better understand policies, including Employment Standards, Human Rights Act, Occupational Health and Safety Regulations and include preventative safety measures on injuries with special attention on lower back injuries.

Professional Drivers also need to be made aware of how to follow proper procedure in reporting their work-related injuries to the Workers' Compensation Board and when requested be provided with the company's Employer Group Policy Contract Manual to ensure equality, fairness, honesty, and transparency (Full Disclosure) to be provided to your legal counsel if placed on the company's Employee Group Disability Policy.

This is something my employer had failed to provide when I had requested shortly after I became disabled to better understand my rights and the employer's obligation to me and was in clear violation of my rights as an injured employee and all Government Acts and Regulations.

I strongly recommend that an Independent Governing System is made mandatory and is established with an Independent 3<sup>rd</sup> Party consisting of Medical Specialists' with extensive training in Musculoskeletal Injuries, Fibromyalgia, Myofascial and Neuropathic Pain Syndrome and Effective Treatment and Legal Professionals with Employment Standards and Human Rights, Occupational Health and Safety Regulations and W.C.B. expertise and without provincial government agencies and AMTA involvement.

To monitor both employers the trucking industry and respected members of Alberta to ensure equality, fairness, transparency (Full Disclosure) and in keeping them honest to protect all professional drivers who earn their living on the road in this demanding and at times a harsh environment and from an abusive and malicious employer as demonstrated in my case.

Enforced with severe penalties, to prevent this ongoing employee abuse and most importantly to not allow any member in the trucking industry to continue with having an "old school trucking" mentality of setting their standards and self-regulating in workplace safety and reporting work-related injuries to the Workers' Compensation Board that is solely based on personal opinion and a biased investigation.

I also strongly recommend that all commercial/professional drivers in the province of Alberta be provided with a card containing contact information to this Independent 3<sup>rd</sup> Party and made available 24/7 to address concerns or questions they may have and to ensure their rights are being protected at all times.

To prevent negligence from an employer (as demonstrated in my case) and the entire trucking industry in Alberta and fulfill their legal and moral obligations to you the professional driver after reporting a work-

related injury that makes claim to be professional and a “1st class organization” to work for and values their employees and being a role model for others to follow.

Professional Drivers' rights, safety, health, and well-being must be protected at all times without question and discrimination from a manipulative and toxic work environment in this demanding industry that claims to be a leader in safety standards and be professional!

Following all related Disability Policies, Government Acts and Regulations including having the injured worker return to work and claiming it is a company approved modified duties (without pay) when in fact the employee is not medically fit and able to and it has not been approved by the family physician, and without supporting documentation risking not only their safety but also their disability coverage.

I further recommend that it be made mandatory that all employers in the trucking industry in Alberta be required to draft in writing with transparency (Full Disclosure) a viable action plan including a Return to Work and Duty to Accommodate program with Modified Duties (with pay) with focus on assisting an injured worker with a gradual and safe return to work transition to the company in accommodating a disabled employee if required pending the employee's family physician's required written medical approval and mandatory supervision to ensure the worker's rights are protected at all times!

The law courts are very clear on who the primary physician is the family physician who is solely responsible for your overall care, and when it is safe for you to return to employment in any capacity, job duties and the number of hours you are allowed to perform in 24 hours and throughout the week without hindering your recovery efforts or making your injury worse!

This viable action plan must then be submitted to the Independent 3<sup>rd</sup> Party for unbiased review and recommendations that focus on the employees' safety, health, and well-being to protect all employees from work-related injuries without question and discrimination.

This is paramount there are no exceptions to this rule and you are still contributing to the company!

In return, this will ensure full compliance and accountability that all injured professional drivers' rights are protected and not being violated by a professional trucking company as demonstrated in my case.

I find it most troubling to see a family business such as the company I was employed with had its beginnings in a small rural Alberta community whose four founding fathers lived by the motto:

*“Since 1947...A Family Affair” is one that we do our utmost to uphold.*

A company that envisions themselves as a leader and role model in the trucking industry that claims to incorporate *“family values”* into the business while instilling into their employees these same core values and desired to set *“professional standards”* in the industry on employee safety by following Government Acts and Regulations who would then, in turn, abandon and go to such length to avoid responsibility in protecting an employee's rights, safety, health, and well-being while promoting the same with equality.

The company went on to receive numerous awards and recognition for professionalism and on October 18, 1996, they came to their conclusion that I was not suitable for an office position, and I was no longer able to drive due to my disability my employment was terminated via telephone conversation while on medical leave seeking appropriated treatment as recommended by my physician.



A decision that was made without my knowledge, addressing my concerns, or including my family physician.

Company department personnel and senior officials would also acknowledge that I was a hard worker and valued employee and on numerous occasions did receive recognition in writing; unfortunately, it was sad that nothing else could be done to assist me and on behalf of the company is willing to provide in writing and verbal regarding previous work performance to help secure employment elsewhere.

The company confirms in writing that my Termination of Employment was due to my physical disability based solely on medical evidence while still on the company's Group Long Term Disability Policy receiving benefits and in an Approved Rehabilitation Program. (Ref: October 1, November 12, 1997, January 26 and February 5, 1999).

My disability benefits continue to this day for over 25 years and my life is certainly challenging.

At no time during my approved supervised medical leave did I receive in writing an offer for retraining or requesting a letter from my family physician inquiring if I was medically fit and approved to return to work in any capacity within the company's professional structure consisting of multiple divisions.

A company that received recognition for being a well-respected and trusted professional company from its peers did sadly fail in their legal and moral obligations in providing me the expected assistance and is a requirement to ensure an effective and smooth transition in the handling of a disability claim along with treating me with dignity and respect by showing defiance of the rules, their standards in which they claim to uphold and protect my rights since the first day I reported my work-related back injury on August 28, 1995, to an operations supervisor and senior official.

The company it's departments personnel and senior officials, in the end, tried to justify their inadequate and unprofessional handling of my disability claim including failure to report this injury and incurred medical expenses to the Workers' Compensation Board has made it known:

*"the company takes the position that this company is a professional organization, is a professional company and provided many examples of awards and that the company has received for their professionalism", "always went out of its way for the employee."*

*"this company does all they can to accommodate their employees and after the employee was injured", "this company has a strong reputation for accommodating its employees" "the company has a strong reputation for professionalism and high standards and that they go out of their way for their employees."*

*"The company is a 1<sup>st</sup> class organization."*

Company department personnel and senior officials from the beginning made it known to the Alberta Human Rights Commission investigation that they are more than willing to provide copies of the numerous achievements, awards, and recognition they have received from the trucking industry and the *Alberta Motor Transportation Association (AMTA)* for setting an example for being a leader and role model in this industry, and from the Federal Government of Canada on January 19, 1995, as one of Canada's 50 Best Private Companies and a well-respected and trusted professional company to work for.

It is over 25 years and after my termination from the company and the company's Insurance Provider still has yet to send me for another 3<sup>rd</sup> Party Independent Medical Examination and Occupational Functional Capacity Evaluation and Vocational Assessment to determine my employment capabilities and physical limitations.

This is a requirement in all disability policies, government acts and regulations to determine if you are medically fit and able to return to your occupation or another one and can only be determined solely by your family physician based on submitted medical/specialist reports. No exception to this rule!

I have not been assigned a case-worker to assist or an offer to coordinate efforts with my family physician in providing the necessary resources including a Rehabilitation Program that I require for treatment in my recovery efforts and with the required Mandatory Supervision and Retraining in assisting me to return to Gainful and Productive Employment as assured by company officials in the beginning and throughout my approved supervised medical leave thereafter.

With the lack of these resources, the impact of all of this on my health and well-being has been enormous and my standard of living continues to deteriorate, and my ability to deal with my ongoing medical conditions worsens.

My disability is ongoing along with daily challenges and I have not returned to any type of employment elsewhere as senior officials in the company were counting on after my Termination of Employment while avoiding to accept responsibility and being held accountable for my back injury via their Insurance Provider and failing in their ongoing legal and moral obligations to me as a valued employee in their charge one would come to expect when working for a company claiming to be a "1<sup>st</sup> class organization" and recognized as well-respected and trusted professional company in the trucking industry and acknowledged by its respected member and governments.

I live daily with chronic pain resulting from Extensive Lumbar Muscle Dysfunction and Ligament Damage with Nerve Impingement, affecting my legs and toes and suffer from sleep deprivation and have limited mobility and my quality of life continues to diminish.

My health continues to deteriorate considerably since reporting my work-related injury and is progressively getting worse. I am screwed!

I now live with a pre-existing and permanent back injury that prevents me from returning to Gainful and Productive Employment to earn a decent living for myself with financial security, live a healthy and independent life and becoming a strong contributing member of society I was able to do before being injured and in an exceptional top physical condition when hired and I am unable to set money aside for a retirement savings plan.

My promising forestry career was also cut short (including 3 dedicated and supportive instructors: 2 academic and 1 fitness with whom I owe a debt of gratitude too and have the utmost respect for) as a result of this abusive and malicious behavior from an employer in the trucking industry with inadequate disability policy and fails in protecting the rights of one of their valued employees. Screwed over again!



Certainly, a waste of one's productive life after reporting a work-related back injury to my employer over 25 years ago at age 31 on August 28, 1995, and placing my trust in department personnel and senior officials as a professional driver while in their charge.

### **Final Thoughts**

Based on my personal experience as a Professional Driver while employed in the Alberta Trucking Industry I was a victim of Employment Standards and Human Rights abuse after reporting a work-related injury. (Supporting documentation available with a written request)

During my tenure with this professional trucking company, I was assured by department personal and senior officials including received monthly newsletters and media publications and had always believed and trusted that my rights would be protected at all times.

In my opinion, from the day I reported my injury, requested a Workers' Compensation Board *Day of the Injury Report Claimant Form*, department personal and senior officials knowingly violated my rights and demonstrated defiance of the acts and regulations set out by our provincial government that is intended to protect the injured worker rights and the company's legal obligations and own moral standards, code of ethics they have in their handling of my claim including the representation of the company during two government investigations thereafter.

I believe this is an Alberta based trucking company that is mainly focused on grandstanding and drawing on public image and acceptance driven by media attention, grandstanding and posturing placed ahead of protecting their employees' rights, safety, health, and well-being and to deflect attention away from taking responsibility to avoid being held accountable for an injured professional driver's work-related back injury and valued employee in their charge.

Company department personal and senior officials came up very short in meeting my expectations and satisfaction (responding via Alberta Human Rights Commission to my complaint) by failing to adequately report my injury to W.C.B. over 25 years ago and handling of my disability claim thereafter with the professionalism, family principles and values and loyalty, they claim to uphold as one would place trust in a family-owned business with a proud history and an industry that emphasizes driver training and safety since being founded in 1947 in a small rural town in Alberta by four founding fathers.

A trucking company that claims to be professional with mentorship in setting professional standards and promoting safety and envisioning themselves as a leader and representative of the trucking industry, and respected members and for the next generation of companies and professional drivers to follow sadly fails to meet my expectations and in my opinion, fails to meet the definition of honesty, "*Respect, Integrity, Loyalty and "commitment to listening to our people"*" and being a role model.

Certainly, a disappointment as the company's behavior along with department personal and senior officials involved demonstrates a lack of leadership/mentorship role and professionalism in the handling of a professional driver's injury claim and is a reflection of the entire trucking industry.

As a result of this unexpected life-altering turn of events while in their charge for whom I once proudly worked for, earned their recognition and respect while leading healthy and productive living and maintain a quality way of life before reporting my back injury with this company while wearing the uniform.

I believe to force change for safer working conditions in the trucking industry for improved health care coverage including rehabilitation and retraining programs and wage loss benefits including overtime that is equal to W.C.B. coverage for the injured employee.

Is to call out in the law courts if necessary and challenge the company along with its Human Resources and Compliance and Safety Departments and senior officials' including received awards and recognition and hold them accountable on their integrity, having your voice heard and going public with your story including exposing this abuse and the challenges you have endured in protecting your rights as a valued and contributing employee and ensure that all employees/professional drivers suffering from an injury (caused by work or not) are not discriminated against or judged.

Raising awareness is the objective here to force the trucking industry and its members, to be honest, and accountable for any wrongdoing towards professional drivers that earn an honest living on the road and at often a harsh environment and is deemed as an essential service by provincial and federal governments and are recognized as a strong contribution to the economic growth and prosperity of Canada.

Something to be proud of and to finally put an end to the "old school trucking" mentality and make it an honest and repeatable industry to be employed in.

All professional drivers without question are entitled to be treated equally with dignity, fairness, honesty, respect, receive open, frank communications and support that you rightfully deserve and expect not just as a valued employee or professional driver but also as a decent person including myself.

Something I was denied on August 28, 1995, from my employer while in their charge as a professional driver in this demanding industry and is a learning experience that will soon not be forgotten while employed in the Trucking Industry in the province of Alberta.

In my opinion, based on my personal experience and living it at this moment this is the sad reality of being employed in Alberta and possibly the entire Canadian Trucking Industry without an Independent Governing System with an Independent 3<sup>rd</sup> Party that is trustworthy to monitor and ensure that Professional Drivers are protected from Employment Standards and Human Rights violations after reporting a work-related injury to their employer.

Keeping the industry honest and accountable to the highest standards to protect workers' safety, health, and well-being on the worksite.

*"It's all in the family, Thanks to our family, We would have never made it this far, or be looking at such a promising future if it weren't for all the employees, our family, who have contributed so much for so long, Employees are the backbone of the company,*

*They say you can always count on family...and right they are."*

President - Chief Executive Officer

Vice President - Chief Operating Officer

Bob Siluch





October 29, 1994

Dear Robert;

On behalf of management...welcome...and congratulations on becoming a permanent staff member of

Until now, you have been employed as a temporary staff member on a three month probation period. During this time, your supervisors have had the opportunity to evaluate you, your knowledge of the Company's policies and procedures and your job performance. At the same time, you have had the opportunity to evaluate the Company and its' merits where you are concerned, both now, and in the future. We trust that you understand and recognize the reasons for the probation period.

Your successful completion of the probation period is the result of the positive evaluations of each of us and that in itself is most encouraging. It is encouraging because working together as a team has been one of the major reasons for the success of The over the past four decades and for the reputation we have earned within the trucking industry. Our motto: "Since 1947...A Family Affair" is one which we do our utmost to uphold.

You are now in a position to help us further promote our success and reputation with; a responsible attitude, teamwork spirit and the sincerity of your efforts. In return, the Company will provide you with fair monetary returns, an opportunity to participate in our Deferred Profit Sharing Plan and a secure future.

Again, I welcome you and your family to and wish you the best for the future.

Sincerely,

President



# Know your obligations after a workplace injury

*(effective Sept. 1, 2018)*

Every successful return to work starts with a great plan. New legislation effective Sept. 1 makes it even more important for all Alberta employers and their workers to work together to have a solid return-to-work plan in place when injuries happen.

Under the new legislation, offering your injured worker modified work is no longer an option, it's your responsibility.

This new legislation applies to most, but not all, employers and workers. There are some exceptions like short-term or seasonal employees, subcontractors, and people with personal coverage. [Click and read more.](#)

## What the legislation means for you

The concepts of modified work and accommodation are not new. In 2017, 93 per cent of injured workers returned to their date-of-accident employment, and 80 per cent of injured workers were placed in modified duties while they recovered.

Employers and workers are now expected to work together towards a return to the same job or an alternative job after a workplace accident, unless it impacts your ability to run your business.

If your injured worker has been an employee with your company for 12+ months, it's assumed that the injured worker will go back to work:

- As soon as they are able to perform their essential job duties in the same job or a job of equal value and pay.
- When they are fit for modified work or alternative work in the first available job.

WCB will work with you to help you bring your injured employees back to work safely. This legislation applies to all claims with a date of accident on or after Sept. 1, 2018.

## Here are 10 things you should know about the new legislation:

### 1. How long does the obligation to reinstate last?

An obligation to reinstate ends when an employee declines to return to work. If your employee is terminated within six months of returning to work, WCB will presume that you did

not meet your obligation to return the employee to work, unless you can provide evidence that there was an appropriate and valid business reason to terminate the employee, unrelated to the work injury. (e.g., like a work shut-down or lay-off.)

If that can't be proven, the account may be penalized up to the equivalent of the worker's net salary for the year before the accident occurred.

### 2. Who's responsible for paying my injured worker's salary during their recovery?

WCB provides wage replacement benefits until your employee is able to return to work. If the employee has restrictions and an accommodation is required at fewer hours or a lower salary, WCB also pay a wage top-up benefit until they've recovered.

### 3. What if I can't afford to provide the worker with the required specialized equipment or facility changes that may be needed so they can safely return to work?

WCB is committed to providing financial assistance if equipment or facility changes are needed.

### 4. How much time do I have to find my worker employment after he/she is fit for modified work?

You must offer the worker the first suitable employment opportunity that becomes available once the worker is medically and physically capable to perform suitable work.

### 5. What's my injured worker's obligation in this process?

Both you and your injured worker are required to cooperate with each other and WCB in a safe return-to-work. This means maintaining communication throughout the recovery period and taking an active role in their return to work planning.

### 6. What happens if my injured worker doesn't cooperate?

If a worker does not cooperate as required by the legislation, we'll determine if there is a valid reason for not cooperating (e.g., health and safety concern, strike/lockout, death in the family, unexpected illness or accident, etc.) If there isn't a valid reason, we may reduce or suspend the compensation benefits to the worker.



#### 7. What type of job do I have to hold for them?

You're expected to keep an employee's pre-accident job (or a similar job with the same earnings) for them to return to when they are able to do the essential parts of their job.

When an employee is fit for modified work (temporarily or permanently), you're also expected to provide the employee with the first available suitable position.

#### 8. How is this different from duty to accommodate with Human Rights? Do both legislations apply to me?

All employers have a duty to modify the work or the workplace to accommodate the needs of a disabled worker under Canadian and Alberta human rights law.

Under the *Workers' Compensation Act*, WCB is responsible for determining whether an employer has met the obligation to accommodate the worker to the point of undue hardship.

To claim undue hardship, you will be required to complete a form that will ask for details and supporting documentation to confirm which factors your claim of undue hardship is based upon. These factors can include the size of your business, health and safety concerns and cost, to name a few. WCB staff can help guide you through this process.

If WCB determines that you have not fulfilled your obligation, you have the right to request a review or appeal of that decision through the normal WCB processes.

While WCB and Human Rights Commission may both hear complaints regarding duty to accommodate, WCB is required to provide the Human Rights Commission with notice that it is dealing with a dispute regarding this issue.

It is not expected that parties will be able to re-argue the same issue regarding duty to accommodate before both WCB and the Human Rights Commission.

#### 9. How will this impact my claims costs and rates?

As always, providing suitable work (whether temporary modified work or a permanent alternate position) remains your best way to control claims costs and positively affect your premiums. If employers and workers work together towards a successful return to work, we actually expect claims costs to decrease.

Penalties related to this legislation will go into general revenues. As is our current practice, the levying of fines or penalties does not impact your premiums.

It is a separate program intended to gain compliance after education has not been successful and is implemented on a case-by-case basis. However, it may impact your participation in other programs like Partnerships in Injury Reduction or funding distribution.

#### 10. I don't have a plan in place. How can WCB help?

More information about developing or formalizing your modified work plan can be found in the *Return to Work* section of our website at [www.wcb.ab.ca](http://www.wcb.ab.ca).

We offer a Modified Duty workshop in both Edmonton and Calgary that teaches you how to build an effective modified work plan.

For more details about this and other workshops we offer at Millard Health, please visit the Millard Treatment Centre section of our website.

Our Return-to-work planning seminar also helps you make sure a solid plan is in place to get your injured workers back to work safely.

Find out more in the *Resources>Seminars* and workshops section of our website.

[Click here](#) for more information about your responsibilities to continue paying your injured worker's health care benefits.

**Still have questions?** Please contact us toll-free at 1-866-922-9221.

# Your injured worker's health benefits

*(effective Sept. 1, 2018)*

Under new legislation, employers are required to continue to pay the health benefits of their injured workers while they are absent from work or unable to perform their regular duties due to a work injury for up to one year\* following the date of the accident. Injured workers are entitled to the same benefits they had before the accident.

If your worker was paying into the benefit plan before the injury or illness occurred, he or she must also continue paying into the plan.

This legislation applies to all claims with a date of accident on or after Sept. 1, 2018.

*Here's what else you need to know about your responsibilities under the legislation:*

## 1. What is the definition of a health care benefit under Policy 04-02, Part II?

A health care benefit includes services covered under basic health plans. It may also include benefits covered under a health spending account for things such as: dental, vision care, medications, hospital services, health services (e.g., nursing care, hearing aids, dressings, foot orthotics, etc.) and paramedical services (e.g., chiropractor, massage therapy, physiotherapy, etc.).

Health care benefits do not include those services covered under a Wellness benefits plan (e.g., fitness equipment, yoga classes, etc.) or other health-related benefits not covered under the worker's health benefit plan (examples could include certain over the counter medications, pensions, spending accounts, life and travel insurance, etc.).

## 2. What if my injured worker had coverage for dependants?

If a worker's spouse, adult interdependent partner, or dependants were covered under the worker's health benefit plan when the accident occurred, they are eligible for continued coverage after the accident.

If a dependant did not have coverage under the worker's benefit plan before the accident, then the dependant still will not have coverage after the accident.

## 3. Are there any people excluded from receiving these continued benefits under the legislation?

Yes. This includes:

- Volunteer emergency response positions (e.g., volunteer firefighter, ambulance driver, etc.)
- Personal coverage holders
- Subcontractors—This applies only to individuals who WCB has determined operate a business as a partnership or proprietorship. It doesn't apply to individuals whose relationship with the employer has been determined by WCB to be that of worker/employer.
- Students
- Employers and workers in exempt industries except when an approved application for optional coverage is in effect.

## 4. What happens if my injured worker doesn't continue paying his or her share of the premiums?

The worker must also continue to contribute to the premiums if he or she was paying them before the accident or illness. If the worker chooses not to continue, he or she won't be covered for any ongoing health care costs.

It is your responsibility to have a process in place for your worker to continue paying his or her contributions if they choose to.

Before ending your contributions, please contact the claim owner associated with your injured worker's claim to discuss what documentation is necessary from your worker to confirm this decision.

## 5. What happens if I don't extend health benefits to my injured worker?

If you choose not to continue making contributions, you're liable for any out of pocket expenses your worker has that would have been covered by the benefit plan.

You're also subject to an administrative penalty that is the equivalent to your worker's health benefit premiums for one year.



**6. What happens if my worker has been terminated for reasons unrelated to the injury. Do I still need to pay their health benefit premiums?**

Injured workers are entitled to the same health benefits they had at the time of the accident. This means you need to continue paying your worker's health benefit premiums as long as:

- they are absent from or unable to perform their regular job duties or up to one year from their date of accident, whichever is first,
- the job is not exempt from this legislation,
- they were entitled to the benefits at the time of the accident, and
- they continue paying their portion of the coverage.

**7. What happens if the worker has been overpaid for their health care expenses?**

To prevent this from happening, we will require the worker to sign a form (The Employer Health Benefit Reimbursement/Declaration form) to confirm the information they provide to us is true and accurate.

Each time the worker is reimbursed for these costs, they will receive a letter detailing this payment and you will be copied on this letter. It is important you notify us promptly if you disagree with an amount paid to the worker.

If it's discovered that the worker was overpaid health care benefits, an overpayment is created on the claim for recovery. You will also receive a credit for the amount of the overpayment.

**Still have questions?** Please contact us toll-free at 1-866-922-9221.

[Click here](#) for more information about your obligations after a workplace accident.

*\* If the worker voluntarily ends their employment relationship with you during the coverage period, he or she will no longer be entitled to continued employer paid health benefits past the last day of employment.*



# Bullying and harassment in the workplace

Every Alberta worker is entitled to a harassment-free workplace. If a worker is experiencing bullying or harassment at work, we are here to provide support and help. As an employer, it is important for you to understand what could constitute workplace bullying or harassment and how to access compensation support for any employee who is suffering.

## How is workplace bullying and harassment defined?

Workplace harassment is defined as a single or repeated incident of objectionable or unwelcome conduct, comment, bullying or action intended to intimidate, offend, degrade or humiliate a particular person or group. It's a serious issue and creates an unhealthy work environment resulting in psychological harm to workers.

*"Workplace bullying is a repeated pattern of negative behaviour aimed at a specific person or group...Although it can include physical abuse or the threat of abuse, workplace bullying usually causes psychological rather than physical harm. Workplace bullying can involve sexual harassment and discrimination. Because workplace bullying is often psychological, it can be hard to recognize. The most harmful forms of bullying are usually subtle rather than direct, and verbal rather than physical."*

\*<https://alis.alberta.ca/succeed-at-work/manage-challenges/bullies-at-work-what-to-know-and-what-you-can-do/>

A worker is bullied and harassed when someone takes an action that he or she knew or reasonably ought to have known would cause that worker to be humiliated or intimidated. When an employer or supervisor takes reasonable action to manage and direct workers, it is not bullying and harassment.

Examples of behaviour that might constitute bullying and harassment include verbal aggression or insults, calling someone derogatory names, harmful hazing or initiation practices, vandalizing personal belongings, and spreading malicious rumours.

## When can WCB provide support and compensation coverage in these cases?

WCB can provide compensation coverage when the bullying or harassment has led to the victim developing a diagnosable injury or illness. Some related diagnoses include depression, anxiety, adjustment disorder or post-traumatic stress disorder (PTSD).

Mental stress is a commonly used term that describes a person's physical and psychological response to events or changes occurring in his or her life. These events are known as stressors. Some level of stress is a normal part of life. However, when a person's ability to cope with the stressors is overwhelmed, distress (a negative form of mental stress), can develop and result in diagnosable psychological or psychiatric injuries.

If your employee's experience at work has resulted in a diagnosable injury, WCB can provide compensation coverage and help arrange for treatment.

## Are there situations that would not be considered bullying/harassment?

Yes. In every workplace, conflict can arise between co-workers that may feel unpleasant, but does not escalate to the point of bullying or harassment.

Differences of opinion or minor disagreements between coworkers are not generally considered to be workplace harassment. Reasonable actions taken by an employer relating to management of work and employees, such as those listed below, are considered a normal part of employment and would not constitute bullying or harassment unless they are delivered in a way that is aggressive, threatening or discriminatory.

- Hiring employees and terminating employment.
- Performance evaluations and/or performance corrective actions.
- Staff assignments, transfers or restructuring.
- Promotions, demotions and lay-offs.



- Periodic workload fluctuations and/or assignment changes.
- Timeline pressures.
- General work environment, including health and safety concerns and union issues.

Interpersonal events of mutual consent between a worker and coworkers or management are not considered traumatic events unless they result in behaviours that are unwanted, aggressive, threatening, or discriminatory.

### What can I do as an employer?

- Harassment and violence are defined as workplace hazards. Employers must develop prevention plans as outlined in the [OHS Code](#).
  - Do not tolerate bullying and harassment of co-workers or peers by any employee.
  - Investigate and report cases of bullying and harassment you have become aware of, observed or experienced in the workplace.
  - Educate yourself and your direct reports on your company's policies and procedure on bullying and harassment in the workplace and comply with company expectations.
  - Take a zero tolerance approach to discriminatory words or actions, including sexual harassment and discrimination based on race, gender, religion, or disability.
- Employer investigation results
  - The completion of an investigation by WCB

For more information about psychological injuries, refer to the [employer fact sheet](#).

### How does WCB confirm an incident(s) of bullying and harassment?

When adjudicating a claim for bullying and harassment, we require corroborating information to reach a fair and balanced coverage decision. Adjudicators will investigate the details of the allegation by examining:

- Available documentation (emails, texts, etc.)
- Witness interviews and statements



# Bullying and harassment in the workplace

Every Alberta worker is entitled to a harassment-free workplace. If you are experiencing bullying or harassment at work, we want to help support you. It is important for you to understand what could constitute workplace bullying or harassment and how to access compensation support.

## How is workplace bullying and harassment defined?

Workplace harassment is defined as a single or repeated incident of objectionable or unwelcome conduct, comment, bullying or action intended to intimidate, offend, degrade or humiliate a particular person or group. It's a serious issue and creates an unhealthy work environment resulting in psychological harm to workers.

*"Workplace bullying is a repeated pattern of negative behaviour aimed at a specific person or group...Although it can include physical abuse or the threat of abuse, workplace bullying usually causes psychological rather than physical harm. Workplace bullying can involve sexual harassment and discrimination. Because workplace bullying is often psychological, it can be hard to recognize. The most harmful forms of bullying are usually subtle rather than direct, and verbal rather than physical."\**

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A worker is bullied and harassed when someone takes an action that he or she knew or reasonably ought to have known would cause that worker to be humiliated or intimidated. When an employer or supervisor takes reasonable action to manage and direct workers, it is not bullying and harassment.

Examples of behaviour that might constitute bullying and harassment include verbal aggression or insults, calling someone derogatory names, harmful hazing or initiation practices, vandalizing personal belongings, and spreading malicious rumours.

## When can WCB provide support and compensation coverage in these cases?

When you're hurt on the job, WCB-Alberta is there to help you get back to work and feeling like yourself again.

In the case of workplace bullying and harassment, WCB can provide compensation coverage when the bullying or harassment has led to the victim developing a diagnosable injury or illness. Some related diagnoses include depression, anxiety, adjustment disorder or post-traumatic stress disorder (PTSD).

Mental stress is a commonly used term that describes a person's physical and psychological response to events or changes occurring in his or her life. These events are known as stressors. Some level of stress is a normal part of life. However, when a person's ability to cope with the stressors is overwhelmed, distress (a negative form of mental stress), can develop and result in diagnosable psychological or psychiatric injuries.

If your experience at work has resulted in an injury, WCB can provide compensation coverage and arrange for treatment.

## Are there situations that would not be considered bullying/harassment?

Yes. In every workplace, conflict can arise between you and co-workers that may feel unpleasant, but does not escalate to the point bullying or harassment. Differences of opinion or minor disagreements between coworkers are not generally considered to be workplace harassment.

Bullying and harassment may be present when work-related interpersonal conflicts are beyond the normal scope of maintaining employment from a reasonable person's perspective. For example, clear and confirmable harassing behaviour at the workplace where a worker has been subjected to threats of harm, violations of personal privacy, public shaming or baseless threats to his or her employment status.

Reasonable actions taken by your employer relating to management of work and employees are considered a normal part of employment, and would not constitute bullying or harassment. This might include:

- Hiring employees and terminating employment.
- Performance evaluations and/or performance corrective actions.



- Staff assignments, transfers, or restructuring.
- Promotions, demotions, and lay-offs.
- Periodic workload fluctuations and/or assignment changes.
- Timeline pressures.
- General work environment, including health and safety concerns, and union issues.

For more information about psychological injuries, refer to the [worker fact sheet](#).

Interpersonal events of mutual consent between a worker and coworkers or management, are not considered traumatic events unless they result in behaviours that are considered unwanted, aggressive, threatening, or discriminatory.

If you think you may be experiencing bullying or harassment in your workplace and want to talk to someone, please call our main number at 1-866-922-9221. Our call centre agents will put you in touch with a specialized adjudicator who can help.

### How does WCB confirm an incident(s) of bullying and harassment?

When adjudicating a claim for bullying and harassment, we require corroborating information to reach a fair and balanced coverage decision. Adjudicators will investigate the details of the allegation by examining:

- Available documentation (emails, texts, etc.)
- Witness interviews and statements
- Employer investigation results
- The completion of an investigation by WCB

### Compensation coverage

If you have been diagnosed with a psychological condition that was caused by workplace bullying or harassment as defined above, we encourage you to submit a claim for compensation.

As with any work injury, your claim will be reviewed by an adjudicator who will help you understand your eligibility for benefits and treatment, or suggest other sources of support if we are not able to accept your claim.

