wcb Workers' Compensation Board – Alberta

C1328

Employer Claim of Undue Hardship

Claim Number _____

Account Number _____

General Information on Obligation to Reinstate and Undue Hardship

The concepts of modified work, accommodation and undue hardship are not new as they exist in Alberta's human rights legislation. These concepts have now been incorporated into the Workers' Compensation Act (WCA). Inclusion within the workers' compensation framework provides a more immediate process when there is disagreement concerning accommodation of an injured worker in the workplace.

The legislative provisions for reinstatement and accommodation support these processes. Employers and workers are expected to work together towards a return to the same job or an alternative job after a workplace accident, to the point of undue hardship.

Pursuant to the legislation, an employer can submit a request to WCB for consideration of undue hardship. The employer must clearly identify the reason for the request and provide sufficient information to support their request. No decision is reached until WCB has had an opportunity to review all relevant information, material and representations from affected employee.

Note: *In most cases, the WCB will not consider it undue hardship for an employer to accommodate their employee where the absence from work is 6 weeks or less in duration.*

To initiate a claim of undue hardship please provide the following information:

A) If you feel you are unable to meet the obligation to reinstate your employee, as the accommodation would create an undue hardship, please provide supporting evidence to demonstrate that there would be undue hardship under the following circumstances:
   - Employer Size and Available Resources
   - Disruption of Operations
   - Health and Safety Concerns
   - Substantial Interference with Rights of Others
   - Financial Costs
   - Interchangeability of Work Force ad Facilities
   - Morale Due to Accommodation

B) If you feel you do not have a legislated obligation as a termination occurred that was not due to the workplace injury or claim, please provide a summary of evidence to support that the termination was not a result of the injury or work accident.

Attach pertinent supporting documents (incident/safety investigation report, witness statements, cost analysis etc.)

Submitted by:

Name: _____ WCB Account Number: _____

Company Name _____ Telephone: _____

Address: _____ Postal Code: _____

Email Address: _____

Submit request to: Mail Workers' Compensation Board
PO Box 2415
Workers' Compensation Board of Alberta
Edmonton AB T5J 2S5

Fax: (780) 427-5863

The threshold for undue hardship is high, the Canadian Human Rights Commission describes it as when an employer cannot sustain the economic or efficiency cost of the accommodation. Each case will be decided on its own merits. Keep in mind that what constitutes undue hardship for one employer may not for another.