



Community Services,
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An electronic newsletter for Island employers on Workers Compensation and Occupational Health and Safety Matters

NEW WCAT DECISIONS

The Workers Compensation Appeal Tribunal has posted new decisions online. A summary of the decisions are provided below, or you can view the full decisions online at:

<http://www.gov.pe.ca/wcat/>

Decision #153

This appeal dealt with the question of whether or not the Worker's symptoms arose out of and in the course of employment. The Worker made a claim for environmental sensitivity to her workplace. The WCB reviewed a variety of medical records and opinions, some of which contained conflicting information, in order to make a determination on entitlement. The WCB found it was speculative to connect the worker's symptoms to environmental sensitivities at her workplace. WCAT agreed with this assessment and dismissed the Worker's appeal.

Decision #154

The issue in this appeal dealt with the calculation of the Worker's temporary wage loss benefits. WCB used the Worker's T4 earnings from the injury employer to calculate the temporary wage loss benefits. The Worker argued that additional income, from different sources other than the employer, should also be used to calculate the temporary wage loss benefits. This decision deals with the interpretation of section 41 and 44 of the *Workers Compensation Act* as well as the policy on "Wage Loss Benefits", now POL-86. WCAT offered many reasons for denying the appeal, including the additional income outside the T4 being an excluded form of income under WCB Policy, the lack of evidence the Worker would have been entitled to such income during his injury period, and the lack of evidence that the Worker's ability to generate this additional income was adversely affected by his injury.

Decision #155

The Worker's claim for compensation following an accident was originally denied by the WCB, as it was determined his time off work was a result of a pre-existing condition. The Worker filed a request to

reopen the claim, based on new evidence involving symptoms that became known after the original claim was denied. WCB again dismissed the Worker's claim and the Worker appealed. WCAT dismissed the appeal because they found, on a balance of probabilities, the Worker's injuries were not caused or aggravated by his accident. The reasoning for this included that the symptoms were first noted two and a half months after the accident and two weeks after the WCB's original decision to deny the claim. In addition, WCAT found there was a lack of objective and subjective medical evidence to ground the Worker's claim.

WORKERS COMPENSATION BOARD POLICY CONSULTATION

Changes have been made to the following Workers Compensation Board Policies:

- POL-03, "Travel and Related Expenses"
- POL-13, "Employer Assessment Billing"
- POL-26, "Physiotherapy Treatment"
- POL-91, "Repetitive Strain Injuries"
- POL-117, "Vocational Rehabilitation"

The policies are available online for viewing and commentary on the Policy Consultation section of the WCB website:

<http://www.wcb.pe.ca/Information/PolicyConsultation>

If you wish to make comments on the policies you have until January 21, 2012 to do so. If you have any questions or comments regarding these you can contact Danny Miller, Policy and Planning Coordinator with the Workers Compensation Board at 902-569-7713.

Happy Holidays from the Office of
the Employer Advisor