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Briefs

Submission to the WCB on Bill 41, Return-to-Work Obligations: Duty to Cooperate and Duty to Maintain Employment

A pdf of the complete submission can be found here(444 KB).

Authority

Thank you for the opportunity to provide submissions with respect to the draft policies implementing the duty to cooperate and the duty to maintain employment set-out in the *Workers Compensation Amendment Act (No. 2),* 2022 (Bill 41) (the "Draft Policy"). These are joint submissions from the BC Federation of Labour (the "Federation" the "BCFED"), the Community Legal Assistance Society (the "CLAS"), and the BCFED Workers' Compensation Advocacy Group (the "WCAG").

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The BC Federation of Labour

The Federation represents more than 500,000 members of our affiliated unions, from more than 1,100 locals working in every aspect of the BC economy. The Federation is recognized by the

Workers' Compensation Board (the "Board" the "WCB") and the government as a major stakeholder in advocating for the health and safety of all workers in BC and full compensation for injured workers.

The Community Legal Assistance Society

The CLAS is a non-profit law firm that has served people in BC since 1971. The CLAS provides legal assistance and works to advance the law to address the critical needs of those who are disadvantaged or face discrimination. The CLAS operates the BC Human Rights Clinic, which provides legal services to people with respect to provincial human rights complaints. The CLAS's Community Law Program provides legal services to people facing poverty, including injured workers who have exhausted the workers' compensation appeal system and need help accessing the courts.

The BCFED Workers' Compensation Advocacy Group

The WCAG is an independent association of worker advocates operating throughout British Columbia. These advocates include union representatives, lawyers and worker advocates employed at various non-profit organizations.

Overview

Bill 41 creates a new role for the Board in upholding and enforcing the duty to accommodate and the related duty to cooperate in the return-to-work process. If implemented properly, these amendments have the potential to be beneficial for workers. The Board will likely be able to adjudicate disputes more quickly than other decision makers. Unlike other decision-makers that only become involved after the damage is done, the Board can act proactively with the goal of preventing job loss and other discrimination. If a breach of the duty to maintain employment is established, the Board can pay benefits to the worker without forcing the worker to pursue collections against an employer who may not be willing or able to pay.

But if implemented improperly, these amendments designed to protect workers' jobs could have profoundly unfair consequences. The duty to accommodate injured workers engages fundamental human rights principles that transcend the workers' compensation system. Quality adjudication is critical. More guidance is needed in the Draft Policy to ensure these decisions are made with the appropriate care and expertise. Further, the duty on workers to cooperate may become oppressive and unfair if implemented without appropriate procedural protections and in a manner divorced from the realities that many injured workers face.

Summary of recommendations

Introduction to Return-to-Work Obligations policy

- Consolidate the definition of suitable employment into a single section.
- Provide a more robust definition of "productive work."
- Confirm that work is suitable only if it contributes to a durable and sustainable reintegration into the workforce.

Duty to Cooperate policy

- Confirm that a worker is not required to return to their pre-injury or alternate work if it is unsafe to do so, which must include an assessment of whether the employer has addressed appropriately any hazards that caused the worker's injury.
- Confirm that a worker will only be expected to pursue or accept suitable employment with a new employer if they cannot return to work with the accident employer.
- Retain the elements of policy #34.11 of the Rehabilitation Services and Claims Manual Volume II (the "RSCM II") confirming that return-to-work plans should be developed through consultation involving the worker, employer, care providers and the worker's union, if any.
- Provide more guidance on how the Board can help parties resolve disputes by agreement.
- Provide Return-to-Work Specialists to assist the parties.
- Create guidance on when the Board will extend the 60-day time limit for decision.
- Confirm that it is generally reasonable for a worker to follow the advice of their care providers.

- Confirm the Board's obligation to investigate thoroughly before rendering a decision.
- Ensure there is no deduction from wage loss and/or vocational rehabilitation benefits while a dispute concerning the employer's duty to maintain employment is being decided under s. 154.3(7) of the *Workers Compensation Act*, R.S.B.C. 2019 c. 1 (the "WCA").
- Confirm that any assessment of what is reasonable must consider the worker's individual circumstances and any barriers impeding compliance.
- Confirm that the Board should first seek to support the worker in overcoming any barriers to compliance before turning to punitive measures.
- Ensure that any obligations placed on a worker are actually within the worker's control.

Duty to Maintain Employment policy

- Confirm that the primary objective is to return the worker to their pre-injury job with any necessary accommodations.
- Ensure that human rights issues are adjudicated by a dedicated team with the necessary human rights knowledge and experience.
- Confirm that the Board must request and obtain all relevant information before rendering a decision.
- Ensure that decisions about a worker's human rights are clear and comprehensive.
- Coordinate with the Workers' Advisers Office, the Employers' Advisers Office and other legal service providers to ensure appropriate legal advice is available.
- Confirm that the Board will not adjudicate the duty to accommodate on its own initiative unless the adjudication is necessarily related to another adjudication the Board must make.

The need for practice and operational guidance

Before turning to the substance of the Draft Policy, it should be noted at the outset that much of the success or failure of implementing Bill 41 will be dictated by practice and operational guidance, as

opposed to policy. Indeed, many of the suggestions in this submission will require a practice directive or other operational guidance to implement. However, without knowing what practice and operational guidance may follow, we have included a broad range of suggestions in this submission.

Data collection will also be critical to ensure the Draft Policies are achieving their purpose. The overarching purpose of the duties to cooperate and maintain employment is to better protect workers' jobs and promote labour force attachment through a cooperative, multi-party approach. But there is a real concern that this goal could be turned on its head if the Draft Policies are not implemented with care. For example, the Board's pre-existing policy framework to reduce benefits for workers who are deemed uncooperative may mean that the vast majority of sanctions end up being imposed on workers because it is easy and familiar to the Board. In contrast, administrative penalties for employers who do not cooperate in the return-to-work process is a new concept. So while the goal of these new duties is largely to protect the interests of injured workers, it may be that in practice the vast majority of sanctions are actually imposed on workers, not employers. Data collection is needed to ensure the Draft Policies are achieving the desired result.

Submissions on the *Introduction to Return-to-Work Obligations* policy

Draft Policy Item 1.3 - Suitable work

a) Consolidate the definition of suitable employment into a single section.

The definition of "suitable work" is somewhat scattered throughout the Draft Policy. There is a general definition of suitable work in the "Key Terms in Return-to-Work Obligations" section. However, the meaning of suitable work is further refined in item 4.1 of the *Duty to Cooperate* policy and item 3.2.1 of the *Duty to Maintain Employment* policy. For clarity, the meaning of suitable work should be described in a single section. Any nuance in applying that general definition in specific situations can then be developed later in the Draft Policy.

b) Provide a more robust definition of "productive work."

Within the definition of suitable work, more detail is needed on the meaning of “productive work” to ensure that certain employers do not turn accommodation into a form of claim suppression. For example, policy 19-02-07 “RTW Overview and Key Concepts” in the Ontario Workplace Safety and Insurance Board’s (“WSIB”) Operational Policy Manual confirms that productive work means work that provides an objective benefit to the employer’s business, including tasks that:

- form part of the injury employer's regular business operation;
- permit the worker to acquire new job skills;
- generate revenue (aside from reducing WSIB costs); or
- increase business efficiency or lead to business improvements.

c) Confirm that work is suitable only if it contributes to a durable and sustainable reintegration into the workforce.

The Draft Policy should also confirm that employment is suitable only if it supports a durable and sustainable return to the workforce. Employment that does not set the worker on a path to long-term reintegration into the labour market is not suitable. Short-term work arrangements and modifications can certainly support this goal, but only if they will realistically create experience, opportunities or work-force attachment that will help the worker over the long-term. Put another way, suitable work should set the worker on a path for long-term success in a suitable occupation.

Submissions on the policy addressing the *Duty to Cooperate*

Draft Policy Items 3, 4.2 and 7.1.1

a) Confirm that a worker is not required to return to their pre-injury or alternate work if it is unsafe to do so, which must include an assessment of whether the employer has appropriately addressed any hazards that caused the worker’s injury.

A worker should never be held in breach of the duty to cooperate for refusing to return to unsafe work. The Draft Policy creates three categories of work: the pre-injury job, alternative (comparable)

work and suitable work. The definition of “suitable work” requires an assessment of whether the proposed work is safe. However, the safety analysis for a worker returning to their pre-injury job or alternative work is less clear.

The fact that a worker retains the essential skills of their pre-injury job does not necessarily mean it is safe for the worker to return to that employment.

For example, suppose a worker is injured by a piece of machinery that was maintained improperly. The worker may have the essential skills to return to that job, but unless the employer has corrected the safety issue, the worker will be put at further risk. If a worker has a right to refuse unsafe work under s. 3.12 of the *Occupational Health and Safety Regulation*, it makes little sense to suggest that a worker will have breached their duty to cooperate by refusing to return to an unsafe work environment simply because they have the essential skills of the job. This is not likely the Draft Policy’s intent, but as written, there is uncertainty about whether the safety requirement set out in the definition of suitable work also applies to pre-injury or alternative work.

For clarity, the Draft Policy should confirm that workers will not be held in breach of the duty to cooperate for refusing to return to unsafe work, even if they have the essential skills to do so. In particular, the Board must assess whether the employer has addressed appropriately any hazards that contributed to the worker’s injury.

b) Confirm that a worker will be expected to pursue or accept suitable employment with a new employer only if they cannot reasonably return to work with the accident employer.

The Draft Policy creates a duty to accept suitable employment offered by any employer, not just the accident employer. As currently framed, the Draft Policy governing the duty to cooperate may conflict with and undermine the duty to maintain employment.

The primary objective of the duty to maintain employment is to return the worker to work with the accident employer whenever reasonably possible. If a worker is fit to carry out the essential duties of the pre-injury work, the employer must offer the worker their pre-injury work or comparable alternative

work. If the worker is not fit to carry out the essential duties of the preinjury work but can perform other work, the employer must offer the worker the first suitable work that becomes available.

The Draft Policy is problematic because it seems to imply that a worker must cooperate by accepting suitable employment with another employer even if it is reasonable to assume that the worker can return to work with the accident employer. Suppose a worker is injured at work and believes they can return to their pre-injury job. However, the accident employer unreasonably refuses to re-employ the worker. The worker seeks assistance from the Board, which might result in the accident employer understanding and complying with their duty to accommodate and re-employ the worker. It would be nonsensical to suggest that a worker in these circumstances could have benefits withheld for non-cooperation if they refuse suitable employment with some other employer while they are still in the process of asserting their right to return to their old job.

The Draft Policy should be amended to confirm that a worker has an obligation to accept suitable employment with another employer only if the worker cannot reasonably be reemployed by the accident employer.

Draft Policy Item 4.2 - Suitable work – Duty to Cooperate

a) Retain the language in policy #34.11 of the RSCM II confirming that return-to-work plans should be developed through consultation involving the worker, employer, care providers and the union, if any.

Return-to-work plans of all kinds are best developed through communication and collaboration involving the parties, unions and care providers. It is critical that the injured worker be actively involved at all stages and that the needs of the injured worker be centred. The new adjudicative process in Bill 41 should not shift the priority away from collaborative consensus building, which remains the preferable way to develop return-to-work plans. Policy #34.11 of the RSCM II – which the Board now proposes to eliminate – references a multi-party consultation involving the worker, the employer, care providers and the worker's union when developing light/modified duties. This language should be retained in the Draft Policy.

Collaboration will be especially important in cases where the worker is pursuing remedies under a collective agreement, and it is not clear entirely which system provides greater protection. It may not be appropriate or frankly desirable for the Board to rush to formal adjudication in these circumstances. However, the Board, with certainty, can support the parties and help facilitate mutually agreeable solutions, which is ultimately the best result for everyone.

Draft Policy Item 6 – Board involvement

a) Provide more guidance on how the Board can help parties resolve disputes.

The Draft Policy states that workers and employers should be encouraged to settle their differences but provides no guidance to Board staff on what actions they can take to assist the parties. The Draft Policy should provide examples of action that Board staff can take to help resolve a conflict. An exhaustive list is impossible obviously, but some guidance would be useful. The list could include:

- Educating the employer or the worker about their obligations;
- Facilitating communication between the parties and among care providers;
- Facilitating new medical opinions to address any gaps in the medical information;
- Seeking to understand any barriers that may be impeding cooperation and helping the parties overcome them;
- Helping the parties explore solutions they may not have considered; and
- Exploring potential accommodations to address the worker's or the employer's concerns.

b) Provide Return-to-Work Specialists to assist the parties.

Building on recommendations in "New Directions: Report of the WCB Review 2019," the Board should provide dedicated Return-to-Work Specialists to assist the parties. Some larger employers will have established disability management programs, but many smaller employers will not. The obligations in the Draft Policy may be new and unfamiliar territory for many employers. And the skills and knowledge needed to navigate effectively the return-to-work process and communicate safely with injured workers goes well beyond a working knowledge of the legislation and policy. Although the duty to maintain employment does not apply to smaller employers, the duty to cooperate does.

Providing additional support and resources on the front end will produce better results and hopefully avoid disputes.

c) Create guidance on when the Board will extend the 60-day time limit for decision.

If a dispute cannot be resolved, Bill 41 requires that the Board make a decision within 60 days of being notified, or such longer time as the Board may allow. The Draft Policy provides no guidance on the circumstances that may justify extending the 60-day time-period. Again, a comprehensive list is not possible or desirable, but some assistance for decision makers is needed. Situations that may warrant an extension might include:

- cases where the Board requires more than 60 days to obtain the information it needs to render a decision with confidence, particularly from the worker's care providers;
- cases where the dispute will be resolved without adjudication as described in s. 154.2(4)(b) of the WCA if more time is provided to the parties;
- cases where a dispute is referred for adjudication by a party, but more than 60 days is needed for the other party to reasonably complete the task at issue; and
- cases where a dispute concerning the duty to cooperate is linked substantially to the outcome of a dispute concerning the duty to maintain employment, which is not subject to the 60-day time-limit.

Draft Policy Item 6.1 - Board determinations – Suitable work and reasons for refusal

a) Confirm that it is reasonable generally for a worker to follow the advice of their care providers.

The duty to cooperate by accepting suitable employment presents unique challenges and considerations. These disputes are often complicated and have the ability to do harm if not handled with care. The Board too often approaches disputes in an adversarial way, pitting the worker's care providers against a Board Medical Advisor in a battle of the experts. This approach can put the worker between a rock and a hard place by forcing the worker to return to work against the medical

advice of doctors they have come to trust in order to avoid having benefits cut off. This is particularly difficult for older workers and workers with more complex health needs who have long-standing and trusting relationships with their care providers.

The Draft Policy should confirm that refusing light duties on the advice of the worker's treating physician will generally be considered reasonable. If the Board has concerns about the physician's opinion or their understanding of the light duties, then it is the Board's responsibility to contact the worker's physician to seek clarification. A substantial degree of consensus can be achieved often if the Board proactively facilitates communication and information sharing between the worker, the employer, care providers and the union, if any. This should be the Board's first priority.

If the worker's care providers maintain that the work is unsuitable, it is unreasonable to expect a worker to return to that work before they have seen opposing medical evidence confirming the work is safe. Before asking a worker to return to work against the advice of their care providers, the Board must send the worker a medical opinion explaining why the light duties are medically suitable and why the opinion from the worker's doctor is not being accepted. Before reducing benefits, the Board must give the worker a reasonable amount of time to consider the opinion and decide whether to return to work.

b) Confirm the Board's obligation to investigate properly before rendering a decision on the duty to cooperate.

If a dispute cannot be resolved by agreement, the Draft Policy must provide decision makers with stronger guidance on the Board's process for rendering decisions. The Board simply cannot take the role of a passive adjudicator who reviews existing information and renders a decision. The Draft Policy should confirm that decision makers have an obligation to ensure that the information on file concerning the proposed job duties and the worker's medical restrictions, limitations and abilities is detailed and current. Consistent with the Board's duty to investigate under policy #97.00 of the RSCM II, decision makers must proactively obtain the necessary information. While workers have an obligation to assist, this is fundamentally the Board's responsibility.

Draft Policy Item 7.1.1 – Reduction of benefits for failure to comply with obligation to not unreasonably refuse suitable work

a) Confirm that wage loss and/or vocational rehabilitation benefits will be maintained while a dispute concerning the employer's duty to accommodate and maintain employment is adjudicated.

The Draft Policy does not address how the vocational rehabilitation process will be impacted when there is a dispute about the duty to maintain employment. The Draft Policy should confirm that a worker's vocational rehabilitation benefits will be maintained while a dispute concerning the duty to maintain employment is being resolved.

For example, suppose an employer refuses to re-employ a worker, but the worker maintains they can return to their old job with accommodations. It would undermine the purpose of the duty to maintain employment if vocational rehabilitation benefits were withheld because the worker refused to look for suitable work with other employers while still asserting a right to return to their previous job.

Similarly, no deduction from wage-loss benefits should be made based on a worker's alleged failure to pursue or accept other suitable employment while there is an ongoing dispute concerning the employer's duty to maintain employment. As a consequential amendment, the description of phase 2 in policy item C11-87.00 of the RSCM II should cross-reference the fact that employers now have a duty to accommodate workers. It is not simply something the employer is encouraged to do.

Draft Policy Item 7.1.2 - Suspension of benefits for failure to comply with other obligations

a) Confirm that any assessment of what is reasonable must consider the worker's individual circumstances and any barriers impeding compliance.

The Draft Policy says that benefits will not be suspended if the worker has done what a reasonable person would have done in the circumstances. It is not clear whether this reasonable person analysis means an objectively reasonable person or a reasonable person sharing the worker's characteristics. The Draft Policy should confirm it's the latter. What might be a reasonable expectation for a person dealing with a relatively minor muscle strain may not be reasonable for a worker dealing with a complex head injury or mental health condition.

b) Confirm that the Board should first seek to support the worker in overcoming any barriers to compliance before turning to punitive measures.

The worker's characteristics and any barriers they may face must be considered when assessing reasonable expectations and a reasonable timeframe for compliance. If a worker is willing to cooperate but there are barriers impeding compliance, the Board should first seek to provide support and assistance to help the worker overcome those barriers.

c) Confirm that any obligation placed on the worker must be within the worker's control.

The Draft Policy should also confirm that any obligations imposed on the worker must be within the worker's control. Some tasks are dependent on a third party to complete, most commonly a doctor or other care provider. The worker can request that their doctor complete the task, but the worker ultimately has no control over if and when it happens. Two examples cited in the Draft Policy – failing to provide information requested by the Board and failing to provide details of work duties to care providers – illustrate the problem. Completion of the task may not be within the worker's control if something is required from the doctor. The Draft Policy should direct decision makers to ensure that the worker is not being held responsible for matters beyond their control.

The Draft Policy would also benefit from language reinforcing that the reasonableness of the Board's demands cannot be assessed in isolation, divorced from the day-to-day reality that injured workers face. A task that may seem relatively trivial in isolation needs to be considered together with all the day-to-day tasks an injured worker must navigate to get by. By way of example, every one of us who has ever apologized for failing to respond to a simple email in a timely way understands that it is not the email in isolation that's the problem: it's everything else that needs to be done. Workload is often death by a thousand cuts, with each cut seemingly inconsequential in isolation. When assessing what is reasonable, the Board must appreciate that its demands are not the only demands – or even the most pressing demands – that many injured workers face in their lives.

Submissions on the policy addressing the *Duty to Maintain Employment*

Amendments to the Draft Policy are necessary to promote quality adjudication on fundamental human rights issues. It is not clear at this point whether there will be a corresponding practice directive and if so, what matters it will cover. Whether through policy or practice – or realistically a combination of the two - the Board should ensure the following:

Draft Policy Item 1 - General

a) Confirm that the primary objective is to return the worker to their pre-injury job with any necessary accommodations.

The primary objective should be to return the worker to their pre-injury job. The Draft Policy confirms the duty on employers to accommodate injured workers, but does not specify that the first priority is to provide accommodations that will return the worker to their pre-injury position. If accommodations can be provided that would allow the worker to return to their pre-injury job, employers should not jump to providing accommodations in alternative employment or other suitable employment. Alternative employment or other suitable employment should be considered only if it is truly not possible to accommodate the worker back to their pre-injury job.

Draft Policy Item 7- Board determinations concerning compliance

a) Ensure that decisions concerning the duty to accommodate are made by qualified decision makers knowledgeable about human rights.

Policy, practice and training must be developed carefully to ensure that the Board is ready and able to adjudicate properly human rights matters. Adjudicating the duty to accommodate is not straightforward. This is not a task that should be given to case managers without the necessary training, knowledge or human rights experience. Being an expert in workers' compensation, or even disability management more generally, does not make one an expert in human rights.

The Board's adjudications will not be restricted necessarily to disability-based accommodations. The Board may be called upon to address other protected grounds.

For example, the discussion paper in the present consultation notes that the Board will have to consider the worker's access to childcare, which may engage the protected ground of family status. The Board's jurisdiction over workplace bullying and harassment often involves gender-based violence. WSIB adjudicators in Ontario have had to assess religious accommodations when assessing whether a job is suitable.[1] Decisions about fundamental human rights must be made by dedicated decision makers familiar not only with the workers' compensation system, but human rights law more generally.

b) Ensure that decisions about a worker's human rights are comprehensive and clearly communicated.

The need for fair and fulsome adjudication is heightened by the potential impacts the Board's decisions can have beyond the workers' compensation system. An adjudication by the Board concerning the duty to accommodate may impact the worker's ability to enforce their human rights in other venues, including the Human Rights Tribunal. In Ontario, which, for many years, has had a statutory duty to maintain employment, human rights complaints are being dismissed routinely on the basis that the relevant issues were already addressed within the workers' compensation system.[2] Any decision concerning the duty to accommodate must contain sufficient detail so that the parties and decision makers outside the workers' compensation system can understand what issues were addressed, what was decided and the factual and legal reasoning behind the decision. Generalized conclusions about a worker's human rights in a template letter will not be sufficient.

c) Confirm that the Board must request and obtain all relevant information before rendering a decision.

In a human rights complaint or labour arbitration there are duties on the parties to exchange relevant documents. In these adversarial systems, the parties can hold each other to account directly if they do not believe full disclosure has been made. The decision maker can assume that with pre-hearing document production, the parties will draw attention to any relevant information. However, the same

is not true in an investigatory system like workers' compensation. The Board, not the parties, is charged with determining whether additional information is needed and if so, obtaining that information. The Board must take its duty to investigate seriously because the parties have little ability to demand or compel information directly from each other.

d) Coordinate with the Workers' Advisers Office, the Employers' Advisers Office, and other legal service providers to ensure appropriate legal advice is available.

The Board should communicate with the Workers' Advisers Office and the Employers' Advisers Office to confirm their scope of service with respect to the duty to accommodate. Without purporting to speak for either organization, some issues may fall within their mandate while others may not. For example, it is not clear whether the Workers' Advisers Office will advise a worker about:

- the implications of a Board decision concerning the duty to accommodate on related legal proceedings;
- responding to communications from the Board and/or other decision makers about deferring one proceeding or the other;
- steps the worker should take to preserve rights and time limits in other venues in cases where the application of the duty to maintain employment is contested (for example, where there is a dispute about the length of time the worker was employed or the number of workers the employer employs);
- the remedies available in each venue; or
- how to proceed where the conduct at issue raises both return-to-work issues that are within the Board's mandate as well as separate human rights violations not within the Board's mandate (sexual harassment in the workplace could be an example).

Although the Board is certainly not responsible for funding legal advice and representation outside the workers' compensation system, the Board should at least ensure that workers have legal advice to understand the nature and overall consequences of the Board's adjudications.

e) Confirm that the Board will not adjudicate the duty to accommodate on its own initiative unless the adjudication is necessarily related to another decision the Board must make.

The suggestion in the Draft Policy that the Board can adjudicate the duty to accommodate without being requested to do so by the worker raises concerns about control over the process. Section 154.3(10) of the WCA speaks only of decisions made at the worker's request. There is no mention of adjudication by the Board independent of a request by the worker. Section 153.3(7) of the WCA identifies certain matters the Board can resolve simply because a dispute exists, but the duty to accommodate is not listed.

This signals an intention to respect the worker's choice of where they want to assert their human rights. Jurisdiction over workplace accommodation is now shared among several different decision makers. Importantly, the remedial powers of each decision maker are quite different.

Delineating the jurisdictional boundaries between the various administrative regimes is beyond the scope of the Draft Policies. Case law will develop presumably over time providing guidance on what aspects of the Board's jurisdiction are exclusive, what aspects are shared and how cases that engage multiple administrative systems should be managed. There may be situations where the duty to accommodate cannot be untangled from another decision the Board is required by statute to make. But to the greatest extent possible, the Board should respect the worker's choices. The worker may have consciously chosen to enforce their human rights in another venue based on their circumstances and the available remedies. This choice could be prejudiced if the Board decides to unilaterally take charge of the issue.

Conclusion

We are cognizant these policies are new to the WCB and will require appropriate resources to ensure they are effectively implemented.

We thank the WCB for the opportunity to participate in this consultation. And we strongly urge you to consider implementing our recommendations.

[1] *Post v. Stevens Resources Group*, 2014 HRTO 1470 at paras. 43-45.

[2] See for example *Morrison v. 2042204 Ontario Inc*., 2019 HRTO 259; *Post v. Stevens Resources Group*, 2014 HRTO 1470; *LaJoy v. Blueline Rental Inc*., 2018 HRTO 390; *Leslie v. Toyota Motor Manufacturing Canada Inc*., 2023 HRTO 320; *Tesfamariam v. Camcor Manufacturing*, 2015 HRTO 219; and *Purdie v. CCM Contracting Ltd*., 2019 HRTO. 1575.