

IN THE MATTER OF: THE WORKERS' COMPENSATION ACT, RSA 2000, c W-15

Order

Motions panel: L. Parish Hearing Chair

Applicant: [REDACTED] Worker
[REDACTED] Applicant's Representative

Respondent: [REDACTED] Employer
[REDACTED] Respondent's Representative

Motion request: Interim Relief
Location: Edmonton
Motion heard: June 16, 2021
Order: Granted

[1] On May 5, 2021, the Applicant applied for interim relief.

[2] In considering this application, we have reviewed:

- All materials submitted as part of the application for interim relief;
- The Applicant's *Notice of Appeal* dated May 6, 2021;
- The Dispute Resolution and Decision Review Body decision of April 27, 2021;
- Sections 13.1(2.4) and 13.1(2.2)(b) of the *Workers' Compensation Act*, RSA 2000, c W-15 (WCA);
- WCB Policy 01-10, Parts I and II; and
- Appeals Commission *Practice Guideline 7 – Requesting Interim Relief*.

On the basis of the material before us, our Order is as follows:

- [3] The application for interim relief regarding claim ██████████ is granted for the following reasons:
- [4] WCB Policy 01-10 applies to interim relief.
- [5] Question 6 of Policy 01-10, Part II, Application 1 states that if a worker is granted interim relief at the DRDRB and the decision on the issue under review is not successful, the interim relief ends at the date of the DRDRB decision. However, if the worker subsequently appeals the matter to the Appeals Commission within 60 days of the DRDRB decision, the Appeals Commission can presume the worker still qualifies for interim relief, unless there has been a material change in the worker's financial circumstances.
- [6] In this matter, the DRDRB denied the worker's application for interim relief to be paid for the period between the request for review and the DRDRB decision. The denial of interim relief was appealed to the Appeals Commission. The Appeals Commission found the worker met all required criteria for interim relief. Order ██████████ granted interim relief to the worker on March 12, 2021 pending the DRDRB decision.
- [7] The DRDRB decision denying the worker's issue of appeal was made on April 27, 2021. The worker filed a *Notice of Appeal* with the Appeals Commission on May 6, 2021 which is within 60 days of the DRDRB decision.
- [8] I find that the presumption in Question 6 of WCB Policy 01-10, Part II, Application 1 can be applied for the following reasons:
- [8.1] I understand WCB policy to mean that in order for the presumption to apply, the worker must have been granted interim relief at the DRDRB level regardless of whether it was ultimately granted by the DRDRB or the Appeals Commission. The purpose of the presumption is to dispense with another level of review and the need to file further documents so that interim relief can be as uninterrupted as possible between the two venues for appeal – as long as the appeal is filed within 60 days of the DRDRB decision.
- [8.2] The worker was granted interim relief at the DRDRB level and filed an appeal to the Appeals Commission within 60 days of the DRDRB decision.
- [8.3] Further documents were filed with the most recent application for interim relief which demonstrate the worker has not had a material change in financial circumstances since the first application was granted.
- [8.4] Order ██████████ found the worker's current monthly household and personal expenses (excluding loan payments) exceeded his income. Documents filed with the present application support the same level of financial circumstances with no material change. The worker's spouse has still not arrived in Canada. The worker is once again experiencing less income as a result of the DRDRB

decision of April 27, 2021. The worker has the same shortfall between his income and expenses which led to the granting of Order [REDACTED].

- [9] The criteria for the presumption have been met and therefore the worker qualifies for interim relief pending the Appeals Commission hearing scheduled for September 21, 2021. The value of interim relief granted is to be calculated by WCB in accordance with the relevant policy.
- [10] The beginning date for interim relief is to be determined by WCB and will end when the Appeals Commission panel issues its decision on the worker's appeal.
- [11] Any dispute with the calculation of interim relief is subject to the usual review and appeal process.

This order is made with the full agreement of the motions panel.

Order signed in Edmonton, Alberta on June 23, 2021.

L. Parish
Hearing Chair
On behalf of the panel

Typed by: [REDACTED]
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