

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

Order

Motions panel: L. Parish
R. Reimer
Hearing Chair
Commissioner

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

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

Motion request: Interim Relief
Location: Edmonton
Motion heard: March 14, 2023
Order: Denied

[1] On February 15, 2023, 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 March 14, 2023;
- The Dispute Resolution and Decision Review Body (DRDRB) decision of February 6, 2023;
- Sections 13.1(2.4) and 13.1(2.2)(b) of the *Workers' Compensation Act*, RSA 2000, c W-15;
- 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 denied 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] We understand that Question 6 of Policy 01-10 provides the Appeals Commission with discretion to continue the interim relief if all of the conditions set out in policy are met. The policy does not direct the Appeals Commission to continue the interim relief but states that it can be continued if all of the criteria are met.
- [7] We note that on December 9, 2022, the DRDRB granted interim relief to the worker while her request for review by the DRDRB was being processed. The DRDRB made a decision on the request for review on February 6, 2023. The worker filed an appeal of the DRDRB decision with the Appeals Commission on March 14, 2023, which is within 60 days of the February 6, 2023, DRDRB decision. We can therefore consider whether the worker should continue to receive interim relief according to Question 6 of Policy 01-10, Part II, Application 1.
- [8] We find that all of the criteria for interim relief cited in Policy 01-10 are not met, namely:
- [8.1] We find the decision under appeal does not affect the entitlement to current wage loss benefits greater than \$500. We note that the issue of appeal is whether the worker has an acceptable claim for a psychological injury. We find that acceptance of a claim does not mean that wage loss benefits will be paid to the worker. The issue of entitlement to wage loss benefits is a separate decision made by the WCB and requires consideration of matters such as the nature of the injury, the work duties and whether time away from work was required. We therefore find the criteria is not met.
- [8.2] We find the evidence also does not support that without interim relief, the worker and her family would be placed in necessitous circumstances such as probable inability to afford basic necessities of life such as food, clothing and shelter, or face probable forfeiture or seizure of assets.
- [8.3] We note that the worker's spouse is currently working but we also note that the worker states that their earnings are insufficient for their financial needs. We note the list provided by the worker shows that their current monthly

income is not sufficient to pay their monthly expenses, but that the monthly expenses include mortgage, insurance and utility payments on two houses and for two vehicles. The worker notes that one house that they own is not able to be rented due to flooding. We note that WCB Policy 01-10, Part II, Application 1, states that a person is not in necessitous circumstances simply because of an inability to maintain a particular lifestyle that the person is accustomed to.

- [8.4] We find that the evidence does not support the worker would be placed in necessitous circumstances without interim relief as she has sufficient means to support herself with reallocation of resources.
- [9] We find the criteria for the presumption of continuance of interim relief has not been met on two grounds. As all criteria have to be met there is no need for us to consider the remaining criteria.
- [10] The application for interim relief is denied.

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

Order signed in Edmonton, Alberta on March 20, 2023.

L. Parish
Hearing Chair
On behalf of the panel

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