



Return to Work (RTW) Health and Safety Tip Sheet

Key Principles

- In all cases, workers returning to work following an injury or illness must know that the work they are returning to is safe for them. Every effort must be made by all the parties (employer, worker, union, WSIB adjudicator) involved in a RTW process to ensure that the worker's benefits continue until the worker can be safely accommodated back into the workplace.
- A worker's diagnosis is confidential and only to be shared with the worker's permission. However, the worker's restrictions or accommodation needs must be shared with the employer and a Ministry of Labour (MOL) inspector (if necessary). The worker's accommodation needs must be made clear and specific.

Returning has to be “Safe” for the injured worker

- Employers' obligations for a safe and healthy workplace extend to workers as individuals—not just to conditions that fit the “average” worker. In other words—the job must be safe for THAT WORKER to do.
- Accommodated workers are entitled (and should) consult with their worker Joint Health and Safety Committee (JHSC) member (or worker Health and Safety Representative in a smaller workplace), and a union steward for assistance and information as they prepare to return to work, and when they are back in the workplace.
- Accommodated workers should report any further injuries sustained from workplace causes to supervisors and the WSIB.

When problems arise with RTW

- Accommodated workers should report hazards related to their own accommodation using the process that the *Occupational Health and Safety Act (OHSA)* mandates for any hazard—Report it to a supervisor (also get the assistance of the union and JHSC worker member or H&S representative) and follow up for response and action.
- If the accommodated worker feels that the work may be unsafe, then a RTW meeting between the employer, worker, their union representative and/or the JHSC worker representative should be arranged in a timely manner to seek resolution regarding the safety and suitability of the

position. The WSIB has expert resources available to assist with ergonomic issues.

- All parties involved in a RTW process must understand that all of their regular rights, responsibilities and duties under *OHSA* continue to fully apply. The MOL can be contacted for assistance and clarification regarding *OHSA*-related issues.
- Accommodated workers who have a reasonable belief that their work is unsafe for them to perform, have the right to complain to the Ministry of Labour (MOL) and request an inspector to investigate the unsafe situation. Accommodated workers also have the right to invoke the work refusal process outlined in the *OHSA* Section 43 if they believe their work is unsafe.
- ALL parties must recognize that a worker need not explicitly state that he/she is refusing unsafe work under the *OHSA* for a legal work refusal to occur. All parties must be able to recognize a work refusal in order to appropriately respond.
- While investigating at a workplace, Ministry of Labour (MOL) inspectors must consider the "vulnerability of the individual worker" when evaluating whether workplace conditions are unsafe or unhealthy in relation to different workers. They must evaluate whether the job is safe for the individual worker to do based on his or her restrictions. Therefore, the worker must be prepared to provide the inspector with documentation of her/his restrictions and accommodation needs.
- Workers are entitled to file grievances against the employer for failure to accommodate.
- Workers who wish to appeal MOL inspector decisions should contact OPSEU's Health and Safety Unit.

Other Resources on RTW

- Recognizing Time to Heal-Assessing Timely and Safe Return to Work
[http://www.wsib.on.ca/wsib/wsibsite.nsf/LookupFiles/AdjAdviceBest_RTH/\\$File/Best_Approaches_RTH.pdf](http://www.wsib.on.ca/wsib/wsibsite.nsf/LookupFiles/AdjAdviceBest_RTH/$File/Best_Approaches_RTH.pdf)
- Return to Work Considerations-Workers with Psych & CPD Entitlement
[http://www.wsib.on.ca/wsib/wsibsite.nsf/LookupFiles/AdjAdviceBA_CPD_Psych/\\$File/BA_CPD_Psych.pdf](http://www.wsib.on.ca/wsib/wsibsite.nsf/LookupFiles/AdjAdviceBA_CPD_Psych/$File/BA_CPD_Psych.pdf)
- WSIB Referral Guidelines
[http://www.wsib.on.ca/wsib/wsibsite.nsf/LookupFiles/AdjAdviceAdvice_req/\\$File/Advice_requesting.pdf](http://www.wsib.on.ca/wsib/wsibsite.nsf/LookupFiles/AdjAdviceAdvice_req/$File/Advice_requesting.pdf)