

# B.C. Mill Worker Granted Human Rights Hearing After Toxic Gassing



A equipment operator at a B.C. pulp and paper mill who said he was exposed to toxic gases then fired over his workplace injuries has won the right to a hearing at the BC Human Rights Tribunal.

Stephen Braden had worked at the Howe Sound Pulp and Paper Corporation, one of several mills owned by Paper Excellence, since 2007. But by 2019, a series of gas leaks kicked off a spiralling chain of events that led to his dismissal.

In his Dec. 8, 2023, decision on the company's application to dismiss the complaint, BC Human Rights Tribunal member Jonathan Chapnick said Braden submitted he was forced to take medical leave after he suffered disabling injuries in workplace toxic gas exposures – first in October 2017 and then in September and October 2018.

The company, for its part, said it fired Braden because he “put himself and others at risk after not disclosing disability-related medical information” and that it was the latest in a “long disciplinary history,” according to the decision.

Ineffective oversight and insufficient preparation made incidents worse, says WorkSafeBC

Braden was far from the only worker injured by the gas leaks, according to an incident report obtained by Glacier Media through a freedom of information request.

In 2016, nine welders were working on installing a new evaporator, a piece of machinery that removes water and “foul condensate” from the chemical solution used to separate wood fibre from pulp. One day, the workers started to complain about headaches, rashes and problems breathing. The symptoms were blamed on an open hatch, according to the report.

Months later, the evaporator was at 100 per cent capacity. But over the next month, several employees reported strong odours throughout the mill, triggering nausea, dizziness, fatigue, headaches and sore throats. On Oct. 12, 2017, 19 workers sought first aid, including two who were sent to hospital in an

ambulance.

By the time WorkSafeBC issued a stop-use order for the evaporator in early November 2017, 56 workers had reported to first aid with “symptoms of exposure to a hazardous airborne substance,” according to a WorkSafeBC incident report.

The exact source of the emissions was never determined, but WorkSafeBC found ineffective oversight and insufficient preparation made the incidents worse, the report states.

Gas leaks in 2022 that sent several people to hospital “as a precaution” have since prompted WorkSafeBC to launch another investigation.

Company claims it fired worker for putting others at risk

Braden went on medical leave after another series of gas leaks in 2018. In late April 2019, he returned to work on a graduated plan that would see him working more every week.

But in early May, “Howe Sound suspended Mr. Braden for one week, stating that he had been absent without leave, or ‘AWOL,’” wrote tribunal member Chapnick.

One day, Braden checked out of work three hours early after being assigned to operate a flat deck delivery truck, claimed the mill.

When confronted, the mill said Braden submitted a medical note saying a doctor recommended he not work more than five-hour shifts in the first one to two weeks back. But before he went home, Braden revealed to supervisors another note from another doctor, said the company.

Cited in the decision, the second doctor’s note says Braden “complains of fatigue and falling asleep at inappropriate times and I have ordered a sleep study. He should probably not operate machinery until this sleep test is done.”

The next day, Braden was absent from work, and the day after, he was terminated, said the decision.

“On Tuesday, May 14th, 2019 it was discovered that you failed to disclose a serious medical restriction that would prevent you from operating mobile equipment,” wrote the company in a termination letter.

“As you elected not to disclose this information to the company and continued to operate mobile equipment you placed your safety and the safety of your coworkers at serious risk of harm.”

Worker only needs to claim disability was a factor in termination

Braden alleged exposure to the toxic gases left him with a disability, which included memory problems, inability to focus, severe headaches, and difficulties staying awake, wrote Chapnick.

“In his response to the Respondents’ application, he says his gas-related injuries lasted for an extended time and he does not anticipate a full recovery,” the tribunal member said.

“I find that these alleged facts, if proved, could establish that Mr. Braden had

a disability under [B.C.'s Human Rights Code].”

Chapnick said the worker's claims extend beyond alleged mistreatment when he returned in 2019. Braden alleged one supervisor insisted “he work 10-hour shifts despite the disability-related limitations on his hours of work advised by his physician” and that he had never been disciplined until the 2017 gassing incident.

To make a case at a hearing, Braden only needs to “prove that his disability was a factor [sic] in the termination, even if it was not the sole or overriding factor,” said Chapnick.

Given the discrepancies in the doctors' notes, Chapnick said it is not clear that the company considered whether “Braden actually ‘put his life and others’ in danger’ when he drove a flat deck delivery truck on May 14.”

Chapnick granted Braden a hearing before the BC Human Rights Tribunal but drew no conclusions on the merits of the worker's complaint.

In addition to Howe Sound Pulp and Paper Corporation, Angie Horianopoulos, Ken Hall, and Mel Dempster are named as respondents.

Source: Glacier Media

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