

Does Workers Comp Cover COVID-19? – Ask The Expert



QUESTION

Can a worker who gets COVID-19 at the workplace get workers comp benefits’

ANSWER

It depends.

EXPLANATION

Since workers comp covers only work-related injuries and illnesses, workers would have to prove that they contracted the infection at work. They might be able to do this by showing that they were exposed to COVID-19 at work, for example, by having frequent and close contact with co-workers confirmed to have had the virus. Even then, their claims could be rejected if the worker was also exposed away from work or the employer can show that it implemented safety measures required under COVID-19 protocols’ social distancing, facemasks, hygiene, etc.

Courts are only now starting to deal with the workers comp implications of COVID-19. One of the first cases comes out of Québec and involves involves a truck driver required to be in confined spaces where he couldn’t maintain social distancing. And because his exposure to 5 workers later confirmed as having the virus occurred early in the pandemic when face masks weren’t required, he had no PPE. CNESST denied his claim for workers comp but the review Tribunal ruled he was entitled to benefits. Significantly for future cases, the Tribunal said the worker need not prove precisely when the infection was transmitted, only that it was most likely transmitted in the workplace. And given that he wasn’t exposed to COVID outside of work, the driver met that burden [*Lamarche v. Consolidated Fastfrate Inc.*, 2021 QCTAT 4580 (CanLII), September 23, 2021].