

Does Workers Comp Cover Covid-19 Infection?



There are literally billions of dollars riding on that question.

Based on guidance from workers comp boards, the basic answer is YES, provided that the worker can prove that they contracted the infection as a result of being exposed to undue risk at work. 'Undue risk' means that mere exposure at work, for example, as a result of frequent and close contact with co-workers confirmed as having the virus, isn't enough. The board could still deny a claim for not being work-related if an employer could show that it implemented social distancing, facemasks, hygiene and other safety measures required under COVID-19 protocols.

Courts are only now starting to deal with the workers comp implications of COVID-19. One of the first cases comes out of Qu bec 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].