

OHS Director's Briefing: Workers' Comp Coverage of PTSD and Mental Stress in Québec



Québec is the only jurisdiction that doesn't have separate rules for psychological injury or disorder. Instead, mental stress is treated like any other injury or occupational disease claim. Adding to workers' difficulty in securing mental stress benefits is that Québec has no coverage presumptions for mental stress the way most other jurisdictions do.

COVERAGE UNDER THE ACT

The Québec *Workers' Compensation Act* doesn't distinguish between physical and psychological injury. Accordingly, to be 'compensable,' i.e., payable under workers' comp, PTSD and other psychological disorders must be considered either:

- An 'injury' suffered in an accident under Section 3 of the Act; or
- An 'occupational disease' causing disablement as if the disease were an injury caused by an accident under Section 111.

CNESST COVERAGE RULES

Unlike every other province, the Québec workers compensation board, aka, *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (CNESST) has no policy specifically addressing the compensability and adjudication of mental stress claims. The rules, therefore, come mostly from cases interpreting the Act:

1. Must Be Caused by Work-Related Accident

To be deemed work-related as either an injury or occupational disease, mental stress must be the cause of one or more accidents, i.e., unforeseen and sudden events arising out of and in the course of the worker's employment.

2. Normal Work Stress Not Enough

CNESST rejects claims for mental stress generated by termination, discipline, job transfers, demotion, performance review and other normal employment-related acts or decisions by the employer. Interpersonal stress or conflict with supervisors, co-workers or customers is also inadequate to support a claim unless it involves workplace violence, harassment, abuse or other excessive or unusual conduct.

3. Can't Be Result of Worker Misconduct

As in all other provinces, mental stress claims aren't compensable if they're triggered solely by the worker's serious and willful misconduct.

4. No Coverage Presumptions

Workers claiming mental stress benefits have the burden of proving, on a balance of probabilities, that the coverage rules have been met. Unlike most jurisdictions, Québec workers compensation include no coverage presumptions, i.e., situations where mental stress is presumed to be covered unless expressly proven otherwise.

LEGAL SOURCES

' The Workers' Compensation Act