

# WINNERS & LOSERS: Workers' Comp & Employer Safety Records



Workers' comp covers injuries a worker suffers in the course of employment. If a worker's claim is approved, it's applied to the employer's experience record and can impact its workers' comp premiums. So when an employer believes that a worker's injury isn't work-related, it may want to challenge the worker's claim. But without adequate documentation and records, the employer may be unsuccessful. Here are two cases that illustrate the importance of having adequate employer safety records.

## EMPLOYER WINS

### FACTS

A worker filed a workers' comp claim for a sore back, saying it was the result of exposure to vibrations and bumps while driving a haul truck. The claim was approved. So the employer appealed, arguing that the worker hadn't gotten hurt on the job.

### DECISION

The Appeals Commission for Alberta Workers' Compensation ruled that the worker's injury wasn't work-related.

### EXPLANATION

The Commission noted that the medical evidence confirmed that the worker had a back injury. So the only issue was how he sustained that injury. The worker acknowledged having hurt his back years ago but claimed he had no problems until recently when work conditions caused back pain. The employer's loss control coordinator said that the worker reported that he wasn't hurt at work but said he'd had back problems for years. In addition, the worker never complained of a workplace injury and never completed any paperwork concerning an incident or injury on site. And a review of the employer's five point safety cards from the six shifts the worker had worked before he claimed to suffer back pain showed the worker hadn't documented an injury or incident.

[Decision No.: 2015-0075](#), [2015] CanLII 4535 (AB WCAC), Feb. 3, 2015

## **EMPLOYER LOSES**

### **FACTS**

A worker claimed that he slipped and fell at a construction site, breaking his right wrist. He reported the injury to the WCB. And he told the doctors who treated him that he'd gotten hurt on the job. But an anonymous caller phoned the WCB, claiming that the worker hadn't gotten injured at work. When the worker's claim was denied, he appealed.

### **DECISION**

The Appeals Commission for Alberta Workers' Compensation ruled that the worker's injury was covered by workers' comp.

### **EXPLANATION**

The Commission explained that workers' comp policy provides for a presumption of honesty on the worker's behalf. This worker had consistently maintained that he got hurt at work.

His claim is supported by contemporaneous medical reports that refer to the worker having suffered an injury at work. In addition, the doctors forwarded to the WCB reports as required when a physician believes there's a work-related injury. In contrast, the reporting by the employer and particularly the foreman is 'inconsistent and unreliable.' The foreman claimed that the worker showed up for work with a black eye but the medical records didn't reflect such an injury. He then claimed the worker said his arm was sore from moving a sofa at home. Although the worker went to the safety office the day he was hurt, the employer didn't keep sufficient records to indicate the reason for his attendance at the safety office. The Commission accepted the worker's version of having fallen at work on a muddy ramp and injuring his wrist, finding that 'the employer's evidence was unsatisfactory to refute that assertion' and had a 'high degree of unreliability.' Thus, the Commission concluded that the worker had a compensable workplace injury that arose out of and occurred in the course of employment.

[Decision No.: 2014-0914](#), [2015] CanLII 7369 (AB WCAC), Feb. 23, 2015