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EARLY AND SAFE RETURN TO WORK

What Is Early and Safe Return to Work?

When you are injured at work, the *Workplace Safety and Insurance Act* states that you and your employer must work together to ensure your "early and safe return to work" (ESRTW). **The goal of ESRTW is an early return to safe and appropriate employment.**

What Is Appropriate Work?

Work is appropriate if:

- it is suitable (you have, or can acquire, the skills necessary to perform the job and it is not a health or safety risk to you or your co-workers),
- it is available (the job exists at the worksite where you were injured, or at an appropriate worksite arranged by your employer),
- it is within your functional abilities, and
- if possible, it restores your earnings to what you earned before the accident.

What Are Functional Abilities and How Are They Determined?

The term "functional abilities" refers to what you are physically capable of doing. Your doctor or other health care professional, decides this and records it on a WSIB Functional Abilities Form. You must consent to the release of functional abilities information to both WSIB and your employer. Your employer should give you a blank form to take to your doctor. If (s)he does not, you could request the form from your Claims Adjudicator.

It is extremely important that your Functional Abilities Form and any other medical reports, accurately state what you are capable of doing. **If you refuse work that is within the functional abilities set out in these reports, you will be treated as un-cooperative and your benefits may be reduced or taken away.** If your Functional Abilities Form or any other medical reports do not accurately state your condition, you should discuss this with your doctor (or other health care professional).

What Is Your Role in ESRTW?

You must co-operate with your employer and WSIB at all times in your ESRTW. Co-operation in your ESRTW includes:

- contacting your employer as soon as possible after your injury and staying in touch throughout your period of disability or recovery,
- helping your employer, if asked, to find appropriate employment,
- giving WSIB any information requested about your ESRTW,
- attending health examinations as directed by WSIB, and
- informing WSIB about any material change in circumstances (see OWA Fact Sheet 7 called "Material Change in Circumstances"). Changes that may affect your return to work include sickness, a change of address, or leaving the province.

If you do **not co-operate**, your benefits may be **reduced** or **taken away**. If you are a construction worker, you should speak to a qualified representative because the things you must do to co-operate may be different.

What Is Your Employer's Role in ESRTW?

Your employer must co-operate with you and WSIB at all times in your ESRTW. Co-operation from your employer includes:

- contacting you as soon as possible after your injury, and maintaining regular contact with you throughout your period of disability or recovery,

- attempting to identify and arrange appropriate employment,
- giving WSIB any information required about your ESRTW, and
- informing WSIB about any material change in circumstances.

What Is the Role of WSIB in ESRTW?

You and your employer are mostly responsible for arranging your early and safe return to work. The involvement of WSIB will be as little as possible. WSIB may, however, do the following:

- provide useful information,
- check on your activities and progress with your employer,
- decide whether you and your employer are meeting your obligations,
- provide mediation services and decide on any problems that may arise between you and your employer.

If there is a dispute between you and your employer, you must advise WSIB immediately. WSIB will try to mediate and resolve the dispute. WSIB may also ask you and your employer to evaluate the work or the workplace, or require that you take part in a functional abilities evaluation. You may wish to get a qualified representative to help you. If mediation does not work, WSIB will decide if you or your employer failed to co-operate, usually within 60 days.

How Does ESRTW Affect Your Benefits?

As long as you are co-operating in your ESRTW, you are entitled to loss of earnings (LOE) benefits (see OWA Fact Sheet 9 called “Loss of Earnings Benefits”). If you are working as part of your ESRTW but earning less than you did before the accident, you will receive 85% of the difference between what you earned before the accident and what you are now earning as LOE benefits.

What If Your Employer Offers You Inappropriate or Unsafe Work?

Refusing appropriate work will be seen as failing to co-operate. For this reason, you should think very carefully before you refuse work offered by your employer. Unless the work is clearly unsafe for you or others, it is usually best to try the work offered by your employer to see if you can do it. If you are unsure about whether the work offered to you is appropriate or if you think it may be unsafe, discuss it with your doctor and seek help from a qualified representative.

What If You Are Ready to Return to Work, But Your Employer Will Not Let You?

You must advise WSIB if there is a dispute and your employer is not co-operating in your ESRTW. Your employer may have an additional obligation to re-employ you (see OWA Fact Sheet 11 called “Re-employment”). If WSIB cannot return you to work with your employer, you should be provided with a labour market re-entry assessment to see if you need help re-entering the labour force (see OWA Fact Sheet 12 called “Labour Market Re-entry”).

Can You Appeal a WSIB Decision on ESRTW?

Yes, but you must object in writing within **30 days** of the date of the decision.

IMPORTANT INFORMATION

There are time limits for appealing WSIB decisions. If you wish to appeal a decision, contact a qualified representative as soon as possible. For more information on time limits, see OWA Fact Sheets 24 and 25 called “Appealing to WSIB” and “Appealing to WSIAT”.

This Fact Sheet contains general information only. It is not a legal document. To see what the law says, you should look at the Workplace Safety and Insurance Act and WSIB policies. If you require help and do not have a union to assist you, contact the Office of the Worker Adviser:

- Our toll free telephone number is 1-800-435-8980 (English) or 1-800-661-6365 (French)
- or visit our website at: <http://www.owa.gov.on.ca>

Cette feuille-info est aussi disponible en français

