

Whitten & Lublin is a team of legal experts who provide practical advice and advocacy for workplace issues.

WORKPLACE CONFLICTS AND DISABILITY CLAIMS

Workplace conflicts are a common occurrence in almost every employment environment. Disputes between co-workers can spark up for many reasons: personality clashes, competition, jealousy, backbiting, bullying, sexual harassment, and discrimination. Disputes between employees and management can arise from poor performance reviews, salary and bonus expectations, excessive workloads, denied promotions, and rejected leave/vacation requests. Whatever the cause, workplace conflicts can potentially cause an employee to experience a significant amount of stress. In fact, a recent study by Statistics Canada found that 6 out of 10 Canadians identified work as their main source of stress.

For some employees, workplace conflicts have serious mental health ramifications. They can cause or contribute to serious psychiatric illnesses, including severe anxiety disorder, major depression, post-traumatic stress disorder, and even suicidal ideation. Employees may need to undergo regular psychological counselling and take medication. Psychiatric illnesses can be both chronic and long-term in nature and can prevent an employee from being capable of carrying out their job duties. According to the Mental Health Commission of Canada, psychiatric illnesses account for approximately 30% of short-term and long-term disability claims.

Group long-term disability insurance is designed to provide income replacement benefits to disabled employees. In theory, employees who suffer from psychiatric illnesses such that they are incapable of working are entitled to a disability benefit for the duration of their illness or the maximum benefit period in the group policy (usually until age 65). However, insurance companies will often reject disability claims arising out of workplace conflicts. The insurer takes the position that the employee has stopped working solely due to "workplace issues" and is not truly disabled. They argue that the employee does not suffer from a severe psychiatric illness and would be capable of working in a different environment or with a different employer.

Almost all group long-term disability policies are occupation-specific, not workplace-specific. A disability benefit is only payable when an employee is incapable of performing their occupational duties irrespective of an employee's particular workplace. For example, a bank teller with an anxiety disorder resulting from a dispute with her supervisor may not be entitled to benefits if she was fully capable of performing her job duties in another branch or with another bank.

However, what insurance companies often fail to grasp is that employees who develop serious anxiety disorders or major depression are not magically cured by simply working with another company or with different co-workers.

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Psychiatric illnesses often involve symptoms of panic attacks, pervasive sadness and lethargy, uncontrollable and fluctuating emotions, an inability to concentrate, and disturbing thoughts of self-harm. An employee who suffers from such symptoms would likely be totally disabled from working in any employment environment, irrespective of whether their disability was borne out of workplace conflict.

Managing disability in the workplace is challenging when the person is attending work and can be even more so when the person is on a medical leave dealing directly with your insurer. It is important to note that employers are obligated to accommodate legitimate disability, howsoever caused, regardless of whether the person qualifies for disability insurance benefits. Failure to meet this legal obligation comes at a cost. Therefore, when this tricky issue arises, consider consulting with employment counsel to learn more about your rights and obligations.

LATEST NEWS

[David Whitten](#), Toronto Employment lawyers recently gave a couple of different interviews on the subject of medical marijuana use in the workplace. He shared his legal tips on how employers should prepare for it and what employees should know if using it. Some of his interviews can be seen on our [Google+ Page](#).

UPCOMING EVENTS


Save the date! [David Whitten](#) will be speaking about employment agreements at the Human Resources Professionals Association's Annual Conference taking place in 2015 from Wednesday, January 21 - Friday, January 23 at the Metro Toronto Convention Centre, Toronto, ON.


For more information please visit [HRPA's website](#)

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