

Employers have a number of obligations under *The Workers Compensation Act (the Act)*, including reporting injuries to the WCB and taking no discriminatory or retaliatory action against a worker for reporting or continuing with a claim. To ensure a strong and responsive compensation system, it's important that workers and employers fulfill their rights and responsibilities.

What is discriminatory action?

Discriminatory action is when an employer takes action, or threatens to take action, that is retaliatory in nature against a worker.

There are two factors that need to exist for discriminatory action to take place:

1. A worker, co-worker or union representative must do one of the following:

- report or attempt to report an alleged occurrence of claim suppression
- report a workplace injury
- make a claim for compensation
- continue a claim for compensation
- provide information to the WCB
- exercise any other rights under the Act or WCB regulations
- perform any other duty or obligation required under the Act or its regulations.

2. As a result of any action listed above, an employer, or their designate, takes or threatens to take, the retaliatory action against the person which may include:

- suspension, layoff, termination or dismissal
- demotion or loss of opportunity for promotion
- reduction in rate of pay or hours of work
- a significant and unfavourable change in schedule, shifts, duties or location of work
- denial or withdrawal of training or other opportunities available to others
- any other action that would reasonably be perceived as adversely affecting the person's employment as a result of taking an action.

How does a person file a discriminatory action complaint?

Individuals should contact the WCB's Compliance Services department who may investigate complaints, allegations or suspected cases of discriminatory action. Call 204-888-8081, toll free 1-844-888-8081, email Compliance@wcb.mb.ca or submit the information online at www.wcb.mb.ca/compliance.



How are discriminatory action complaints investigated?

The WCB conducts investigations in accordance with established administrative guidelines and follows WCB Policy 22.20, Program Abuse.

Employers have an opportunity to answer an allegation and present evidence disproving an allegation by showing that the action was taken for reasons unrelated to the worker or representative exercising a right under *the Act*.

Is there a deadline to file a discriminatory action complaint?

No. While it is preferred that a person files a complaint within one year of the alleged action taking place, circumstances may prevent a person from doing so. The WCB will conduct as thorough an investigation as circumstances permit.

How much can an employer be penalized if they are found to have taken discriminatory action?

The WCB will assign a penalty of \$4,000 for the first offence, \$5,000 for a second offence and \$6,000 for subsequent offences.

Can the penalty be appealed?

Yes. An employer has 30 days from the date of the decision to file an appeal with the Appeal Commission. This is the final level of appeal.

To begin an appeal, an employer must complete the Application to Appeal form available at www.appeal.mb.ca or request the form by contacting the Scheduling Coordinator at 204-925-6114 (collect). Although the Appeal Commission functions separately from the WCB, it is bound by *the Act* and *WCB Policies*.

If I have questions about discriminatory action who can I call?

Call WCB's Compliance Services at 204-888-8081, toll free 1-844-888-8081 or email Compliance@wcb.mb.ca.