

Appeals Commission for Alberta Workers' Compensation

Docket No.: AC0279-25-33

Decision No.: 2026-0103

Decision Summary

- [1] **Was the worker eligible for temporary total disability benefits, effective December 6, 2023?**
- [2] The worker was entitled to temporary total disability benefits, effective December 6, 2023. The worker's appeal is granted, and the March 26, 2025 decision of the Dispute Resolution and Decision Review Body is reversed.

Introduction

- [3] The worker is appealing a March 26, 2025 Dispute Resolution and Decision Review Body (DRDRB) decision.
- [4] The worker was employed as an office manager when she was injured at work. The Workers' Compensation Board (WCB) accepted the worker's claim for injuries to both arms and her right shoulder.
- [5] The worker underwent rehabilitation and received temporary total disability (TTD) wage loss benefits. The worker was unable to return to her date-of-accident job, but on December 6, 2023, the WCB determined that the worker was fit for other suitable work. The WCB terminated TTD benefits and instead provided the worker with re-employment benefits.
- [6] The worker requested a review, and on March 26, 2025, the DRDRB confirmed the decision.
- [7] The worker appealed to the Appeals Commission within the legislated time to appeal. The employer and the WCB were notified of the appeal, but neither participated.

Preliminary Matters

Legislation and policies considered

- [8] In considering this appeal, we relied on:
- [8.1] Sections 13.1(1) and 13.2(6) of the *Workers' Compensation Act*, RSA 2000, c W-15 (WCA); and

[8.2] WCB Policy 04-02, Part II, Application 1.

[9] We referred to the version of the *WCA* in effect at the date of the hearing, or as directed by the legislation.

[10] The Appeals Commission is also bound by WCB policy when making its decisions. We referred to the version of WCB policy in effect on the date of the WCB's case manager decision.

[11] Full excerpts of the sections of the *WCA* and the WCB policy referred to in this decision can be found in the appendices.

Modifying the appeal issue

[12] In the DRDRB decision, the issue under review was stated as: "Does [the worker] have a fitness for work?". The worker's *Notice of Appeal* also reflected the same issue.

[13] At the hearing, the panel noted that fitness for work is not itself an appealable policy decision; instead, it is a finding of fact that may be involved in multiple possible WCB policy decisions.

[14] On our review of the decision under appeal, we noted that the DRDRB cited the WCB policy concerning eligibility for TTD benefits. Additionally, in reference to the WCB decision being reviewed, the DRDRB referenced a December 6, 2023 letter from a WCB case manager. This letter stated that, as the WCB had determined the worker was now able to work, her current benefits would change from TTD benefits to a re-employment benefit. In effect, the WCB terminated the worker's TTD benefits on that date.

[15] Accordingly, we determined that the relevant policy decision addressed by the DRDRB decision was the WCB's decision that the worker was ineligible for TTD benefits as of December 6, 2023, and we proposed to modify the appeal issue accordingly. The worker's representative (the representative) did not object to this modification.

[16] Rules 1.11(1)(e) and 4.1(2) of the Appeals Commission's *Appeal Rules* provide the panel with the authority to modify issues of appeal. Therefore, we modified the appeal issue to: "Was the worker eligible for temporary total disability benefits, effective December 6, 2023?"

Jurisdiction

- [17] The WCA provides the Appeals Commission with exclusive jurisdiction to examine, inquire into, hear, and determine all matters and questions in respect of appeals of decisions made by the DRDRB. The Appeals Commission may confirm, reverse, or vary the DRDRB decision being appealed, or it may refer the matter back to the WCB for further action or decision, with or without directions.
- [18] At the outset of the hearing, the panel noted that the representative's written submission for the appeal hearing included arguments about the suitability of the data entry clerk position that the WCB used to calculate the worker's current permanent wage loss benefits. The representative was also requesting that the worker be assessed for permanent wage loss benefits based on zero post-accident earnings.
- [19] As outlined above, the DRDRB decision under appeal concerns the worker's eligibility for TTD benefits, effective December 6, 2023. Therefore, the panel explained that because our authority is limited to considering appeals from decisions of the DRDRB, we were of the view that the representative's submissions and requested remedies addressed matters outside of our jurisdiction.
- [20] The representative acknowledged that the panel's jurisdiction was limited to considering the worker's eligibility for TTD. He confirmed that he was prepared to proceed with the hearing on that basis and indicated he would make submissions to the panel about the worker's eligibility for TTD.
- [21] Notwithstanding this, we note that some of the representative's arguments during the hearing related to factors such as the worker's inability to be a competitive candidate in the employment market, the unreliability of voice-recognition technology for data entry work, the unsuitability of the data entry clerk position identified by the WCB, and the lack of any actual, identifiable job that fits the worker's functional restrictions.
- [22] We note that these arguments address the worker's employability. Employability is a concept that includes not only fitness for work but also includes consideration of many factors outside of the worker's compensable injuries, such as their skills and the availability of suitable jobs. Employability is relevant for determining the calculation of wage loss benefits.
- [23] However, the issue under appeal is TTD benefits eligibility. As outlined in detail in our analysis below, employability is not a relevant factor for determining a worker's eligibility for TTD benefits. Therefore, as these arguments are not relevant to the issue currently under appeal, we have not addressed them in our analysis. The representative's remaining submissions are summarized under "Key Submissions", below.

Issue

- [24] **Was the worker eligible for temporary total disability benefits, effective December 6, 2023?**

Key Submissions

- [25] The representative provided written submissions, and both the worker and the representative made oral submissions in the hearing.
- [26] The representative's submissions, including responses to panel questions, are summarized as follows:
- [26.1] The representative argued that the worker is eligible for TTD benefits because she is not fit for any work. He submitted that the WCB's conclusion that the worker could perform other suitable work is divorced from the reality of her circumstances and is also not supported by the medical evidence.
- [26.2] The representative described a day in the worker's life. He submitted that the worker has profound functional restrictions and disrupted sleep, and therefore, she requires assistance for basic self-care, and she must nap frequently throughout the day and use opioid and analgesic medication to manage her pain. The worker requires assistance similar to home care to achieve even basic functioning.
- [26.3] The representative submitted that this is not the case of a worker who has refused to try. She has made consistent efforts to try to resolve this issue, including when she suggested to the WCB that she try voice-recognition technology training. However, her significant functional restrictions cannot be addressed through ergonomics or accommodations, and they demonstrate that the worker cannot reasonably be considered fit for any work.
- [26.4] The representative also argued that this is supported by the available medical reporting. In particular, he emphasized that the independent medical examination (IME) addendum reported that the worker has no meaningful use of her upper extremities.
- [26.5] The representative requested that the panel reverse the DRDRB's decision to terminate TTD benefits, which would allow the worker to receive full wage loss benefits while the WCB considers appropriate permanent benefits.

- [27] The worker's submissions, including responses to panel questions are summarized as follows:
- [27.1] The worker feels that she is unable to return to work. She told the panel that she previously enjoyed working and being active, but her whole life has changed because of her injuries.
- [27.2] The worker described a typical day in her life. She explained that she needs pain medication, heat pads, and long soaks in a bath throughout the day to manage her pain and gain even basic functioning in her arms. She requires assistance from her family or a community service provider for her basic activities of daily living, such as getting in and out of bed or the bathtub, getting dressed or undressed, and brushing her hair. She can no longer drive. Her pain also impacts her sleep and as a result, she also struggles with energy and concentration.
- [27.3] The worker also told the panel about her sitting restrictions, which were referenced in the IME addendum. The worker explained that this restriction is related to her compensable arm and shoulder injuries. Her lower body is not causing the sitting restriction; instead, when she sits for more than 10 to 15 minutes, her compensable injuries cause her arms to swell.
- [27.4] The worker argued that the reporting from the medical professionals who actually examined her all support that she is not fit to work in any capacity.

Analysis

- [28] A worker is eligible for TTD benefits when there is medical evidence that a compensable injury resulted in temporary work restrictions which prevent a worker from performing their pre-accident job or any other suitable job.
- [29] TTD benefits are paid for as long as the compensable temporary total disability lasts, which is generally until:
- the weight of medical evidence indicates the worker is considered fit to return to suitable employment
 - the remaining disability is considered to be permanent
 - the worker dies

[30] Therefore, to determine this issue of appeal, the question we must answer is whether the weight of medical evidence establishes that the worker's compensable injuries resulted in work restrictions that prevented her from resuming pre-accident or other suitable employment, effective December 6, 2023?

[31] For the following reasons, we find that it does.

Evidence and findings

[32] We find that the weight of the medical evidence establishes that the worker was unable to perform her job or any other work, effective December 6, 2023 - that is, we find that she was not fit for work.

[33] The relevant medical evidence concerning the worker's functional abilities in the period around December 6, 2023 is summarized as follows:

[33.1] The worker underwent a basic functional capacity evaluation in February 2022. Her functional level at that time was assessed at a limited level, on a rare basis. However, at the time of this evaluation, the worker's right shoulder injury had not yet been accepted as a compensable injury and the kinesiologist who completed the evaluation noted:

Her shoulder is currently non-compensable and is also affecting her abilities, however shoulder aside, she is still unable to use her right elbow and has limited function of her left elbow.

[33.2] The kinesiologist ultimately concluded that the worker was not fit for work, noting:

Worker is unable to complete daily functions (dressing herself, bathing herself, cooking for herself, driving herself), so at this time, it is highly unlikely that she would be able to tolerate any kind of work.

[33.3] In May 2022, the worker was assessed by an occupational therapist. The purpose of the assessment was to determine the worker's needs for home maintenance and housekeeping assistance; however, the resulting report also outlined the worker's current functioning. The occupational therapist concluded that the worker had limited upper extremity function and noted that the worker's functioning was assessed as "less than sedentary".

[33.4] The occupational therapist also completed a hand therapy assessment. The occupational therapist indicated the worker was unable to complete modified or alternative duties and indicated "n/a" in response to a question about the worker's capability for work.

- [33.5] The next report concerning the worker's level of functioning is the November 2023 IME. In this report, the psychiatry specialist who conducted the IME stated:

In my opinion, [the worker] has permanent work restrictions including no repetitive use of the upper extremities, no overhead use of the right upper extremity, and no heavy lifting, pushing, pulling, or carrying.

- [33.6] The WCB requested clarification concerning the worker's fitness for work. In a January 2024 IME addendum, the psychiatry specialist stated:

With respect to the question of whether [the worker] "would be able to tolerate any kind of work," that is difficult to predict, given that pain tolerance is highly subjective and variable, both between clients and even within clients. If [the worker] were to attempt to return to work, her work restrictions are such that she would have to perform much of the bimanual activities required with her left upper extremity predominantly. This would likely predispose her to recurrence of her left upper extremity overuse symptoms. For [the worker] to have a successful return to work, her work duties would be to be [*sic*] such that no meaningful use of her upper extremities was required. If such a position exists (? dispatcher), in my opinion, [the worker] could be considered for retraining. However, her limited sitting tolerance and overall decreased activity tolerance would likely necessitate this being a position with modified (reduced) hours at best.

- [33.7] In a December 2023 letter, the worker's family doctor opined that the worker was unable to return to work as she was not fit to work in any capacity.

- [33.8] Finally, in April 2024, a WCB medical consultant reviewed the IME and the IME addendum to provide an opinion on the worker's fitness for work.

- [33.9] The WCB medical consultant noted the limited sitting tolerance described in the IME addendum and opined that, self-evidently, this would have nothing to do with the worker's compensable upper body injuries. Therefore, considering the remaining restrictions outlined by the physiatrist, he stated that the worker could perform modified duties on a full-time basis.

- [34] We find that the weight of the evidence establishes that the worker was unable to work, effective December 6, 2023.

- [34.1] Considering the IME and IME addendum holistically, and in the context of the other medical reporting from the relevant period, we do not find that the evidence describes a worker who is capable of returning to work.

- [34.2] The physiatry specialist outlined considerable work restrictions in the IME and IME addendum. In addition to no repetitive use of the upper extremities, no overhead use of the right upper extremity, and no heavy lifting, pushing, pulling, or carrying, the physiatry specialist also noted that the worker would need to make no meaningful use of her upper extremities.
- [34.3] We also note that the physiatry specialist's comments concerning the worker's return to work in the IME addendum are significantly qualified. For instance, she discussed the worker "attempting" to return to work and questioned whether any position existed that would allow the worker to return to work successfully.
- [34.4] Moreover, she ultimately concluded that fitness for work depended on the worker's subjective pain tolerance. In their submissions to the panel, the worker and the representative both detailed how the worker's life is significantly impacted by the pain from her compensable conditions. This has resulted in her requiring assistance for even basic activities of daily living.
- [34.5] We find that the worker's significant restrictions and her pain tolerance, requiring the regular use of opioids, analgesics, and other management strategies throughout the day, would reasonably restrict her ability to perform any work.
- [34.6] Finally, when considering the other relevant medical evidence from the period, we note that the reporting from a kinesiologist, an occupational therapist, and the worker's family doctor all clearly indicate that the worker was not fit for work.
- [34.7] We acknowledge that the WCB medical consultant considered the IME and IME addendum as confirmation that the worker could work full-time hours in accordance with the identified restrictions. However, for the following reasons, we placed limited weight on this opinion.
- [34.8] The WCB medical consultant's opinion was based in part on his view that the worker's limited sitting tolerance was not related to her compensable injuries. However, we note that the worker submitted at the hearing that the sitting restriction is related to these conditions.
- [34.9] On our review of the record, we note that the physiatry specialist did not explain in the IME or IME addendum whether the sitting restriction was related to the worker's compensable injuries. We also found no indication in the record that the WCB has investigated the cause of the worker's sitting restrictions.

- [34.10] For instance, the WCB medical consultant merely stated that it was “self-evident” that it was not related to upper limb issues. However, we note this is contradicted by worker’s evidence on this point. The WCB medical consultant also provided no support for this opinion, and we note that he is a general practitioner, not a specialist.
- [34.11] Therefore, considering the lack of investigation to support the opinion, we placed limited weight on the WCB medical consultant’s memo.
- [34.12] Moreover, we note the WCB medical consultant’s opinion only considered the IME and IME addendum. There was no mention or consideration of any other relevant medical reporting, such as the kinesiologist, occupational therapist, and family doctor reporting outlined above.
- [35] Therefore, when considering all of the relevant medical reporting from the period, we find that the weight of the medical evidence supports that the worker was not fit for work, effective December 6, 2023.

Further adjudication

- [36] As outlined in detail above, our decision relates to the worker’s eligibility for TTD benefits.
- [37] However, we acknowledge that the worker’s restrictions have since been confirmed to be permanent. As discussed under the Jurisdiction section above, the worker’s eligibility for permanent benefits and the calculation of any such benefits is not before us. Therefore, we make no findings or determinations in respect of those matters.
- [38] Nevertheless, we wish to explicitly note that this decision does not preclude the worker from seeking to have these matters adjudicated by the WCB, or from having any such decisions reviewed by the DRDRB. Any further decisions arising from this adjudication would be subject to the usual review and appeals processes.

Decision

- [39] The worker was entitled to temporary total disability benefits, effective December 6, 2023.
- [40] The weight of the evidence establishes that the worker's compensable injuries resulted in work restrictions that prevented her from resuming her pre-accident or other suitable employment, effective December 6, 2023.
- [41] The worker's appeal is granted, and the March 26, 2025 decision of the Dispute Resolution and Decision Review Body is reversed.

This decision is made with the full agreement of the hearing panel.

Decision signed in Edmonton, Alberta on February 23, 2026.

R. Heslop
Hearing Chair
(on behalf of the panel)

Hearing Panel:	R. Heslop	– Hearing Chair
	G. Glavin	– Commissioner
	D. Boissonneault	– Commissioner

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Appendix A

Legislation – *Workers' Compensation Act, RSA 2000, c W-15 (WCA)*

[A1] Section 13.1(1):

13.1(1) Subject to sections 13.2(11) and 13.4, the Appeals Commission has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act and the regulations in respect of

- (a) appeals from decisions of a review body under section 9.4,
- (b) repealed 2020 c32 s3(8),
- (c) appeals from determinations of the Board under section 21(3), and
- (d) any other matters assigned to it under this or any other Act or the regulations under this or any other Act,

and the decision of the Appeals Commission on the appeal or other matter is final and conclusive and is not open to question or review in any court.

[A2] Section 13.2(6):

(6) In the hearing of an appeal under this section, the Appeals Commission

- (a) shall give all persons with a direct interest in the matter under appeal an opportunity to be heard and to present any new or additional evidence,
- (b) is bound by the board of directors' policy relating to the matter under appeal,
- (c) shall, subject to subsection (6.1), permit the Board to make representations, in the form and manner that the Appeals Commission directs, as to the proper application of policy determined by the board of directors or of the provisions of this Act or the regulations that are applicable to the matter under appeal,
- (d) may confirm, reverse or vary the decision or determination appealed,
- (e) may direct that its decision be implemented within a specified time period, and
- (f) may refer any matter back to the review body or the Board, as the case may be, for further action or decision, with or without directions.

Appendix B

Workers' Compensation Board Policy

[B1] Policy 04-02, Part II, Application 1, Questions 1 and 2 (Issue Date: April 1, 2021):

1. When is a worker eligible for temporary TOTAL disability benefits?

A worker is eligible for temporary total disability benefits when there is medical evidence the work-related injury has resulted in temporary work restrictions which prevent the worker from resuming pre-accident employment or other suitable employment.

2. How long are temporary total disability benefits paid?

Temporary total disability benefits are payable for as long as the compensable temporary total disability lasts, generally until:

- the weight of medical evidence indicates the worker is considered fit to return to suitable employment, or
- the remaining disability is considered to be permanent (see Policy 04-04, *Permanent Disability*), or
- the worker dies (see Policy 04-08, *Fatalities*).

Exceptions:

If the period of a worker's disablement is prolonged due to:

- the unavailability of a hospital bed or other treatment facility (see Question 10)
- the existence of a concurrent condition (see Question 11)
- the unavailability of suitable modified work which is described in Policy 04-05, *Return-to-Work Services** as work that:
 - ◇ accommodates the worker's compensable medical restrictions so the worker can perform the duties without endangering their recovery or safety, or the safety of others,
 - ◇ contributes to the worker's physical and vocational rehabilitation by keeping the worker active and involved in the workplace,
 - ◇ promotes the gradual restoration to the worker's pre-accident level of employment,
 - ◇ is a meaningful and productive part of the employer's operations, and

- ◇ does not create financial hardship for the worker (for example shift changes that require additional childcare costs, unreasonable travel to another location, etc.),

WCB may consider continuing temporary total disability benefits for the period of unavoidable delay.

In addition to the above, if temporary modified work ends because an employer withdraws the modified work or terminates the worker, WCB will place the worker on temporary total disability benefits until it determines the worker is capable of other suitable employment. The only exception is if the withdrawal or termination was due to the worker's egregious conduct. See Policy 04-05, Part II, Application 4, Questions 8 to 11.

*For claims with a date of accident from September 1, 2018, to March 31, 2021, inclusive, see also Policy 04-05, Part II, Application 2, Question 14.