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Sent: January 6, 2024 12:41 PM
To: lal@laliverside.com
Cc: Gavin Pokan <Gavin_Pokan@wsib.on.ca>
Subject: Redactions

Good afternoon, Les. The notes and tabs provided to our COO Gavin Pokan on Redaction were forwarded to me for review and response.

I requested the opportunity to respond to you directly on this issue, as I am responsible for both Corporate Compliance and the Privacy & FOI Office. The Corporate Compliance Branch review of compliance with sections 57-59 the Workplace Safety & Insurance Act and related Operational Policy, reported quarterly as a compliance issue to Governance Committee starting in 2020 and thereafter, noted a “lack of consistent and accurate relevancy reviews prior to a release of claim information”. This was supported by the Privacy and FOI office, where a privacy breach occurred each time erroneous information (another worker’s mis-filed claim information) had been improperly released. Contrary to your assertion in section F of your notes, the driver for ensuring consistent relevancy redaction as required by s.58 of the Act was compliance, led by the guidance provided by our Compliance Division.

When an employer challenges a WSIB decision to redact irrelevant information when providing access on an issue in dispute, we have updated our response to indicate that the redacted information “does not contribute to the establishment of facts in the claim matter nor was it used to establish entitlement”. We disagree that any additional “reasons” are required. A WSIB decision under s. 58 is final and not subject to an employer appeal, pursuant to WSIA.

While we appreciate your submissions with respect to procedural fairness, our current process complies with our legislative duty and should be maintained.

Ultimately, guidance on procedural fairness and administrative justice is provided by judicial review if an employer chooses that path. As a customer service to employers who believe we are not acting fairly, we are prepared to obtain additional advice on our process in following s. 58 of WSIA. We will then consider the issue further and, should changes result, our stakeholders will be duly advised.

Thanks

Mike

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