

## APPENDIX F

### Safe Return to Work Algorithm

Workers and/or the union can file grievances under collective agreement language and proceed to arbitration where appropriate as per the collective **agreement and the *Ontario Labour Relations Act***.

#### Decision Points Algorithm for Safe Return to Work

##### Situation 1:

Worker obtains detailed medical verification from treating health care provider and presents to employer.

FIT TO WORK? **NO**

##### Scenario 1

**PROCESS STOPS, WORKER REMAINS OFF WORK UNTIL MEDICALLY ABLE TO RETURN TO SOME WORK**

##### Scenario 2

##### **EMPLOYER OFFERS WORK REGARDLESS OF MEDICAL**

(union must be involved OHRC case law)

##### **Engage IRS**

- worker reports health/safety concern to supervisor/employer (section 28 OHSA)
- if unresolved engage JHSC
- if necessary, union and/or JHSC remind employer and WSIB that no change in WSIB benefits until IRS exhausted
- if unresolved consider calling MLTSD with complaint (MLTSD to respond on priority basis to worker with limited right to refuse as per April 2005 memo)

##### **Consider work refusal/work stoppage**

- if unresolved, worker consider exercising right to refuse unsafe work (section 43 OHSA, and ONA Guidance Document)
- if necessary, union and/or JHSC point out "work refusal" to employer and/or WSIB

- if unresolved, certified member JHSC consider initiating work stoppage process (section 45 OHSA)
- if unresolved after stage I, and worker continues work refusal, MLTSD must be called (section 43 (6) OHSA)
- MLTSD investigates and makes decision

WSIB resumes file adjudication

**Consider filing a grievance for violation of collective agreement.**

## Decision Points Algorithm for Safe Return to Work

### Situation 2:

#### FIT TO WORK? **YES**

Workplace parties meet and consider accommodation needs of worker.

#### **WORKPLACE PARTIES REVIEW:**

- medically verified restrictions
- worker's abilities

#### **Workplace parties consider all physical demands against restrictions:**

- own job accommodated
- other job
- other job accommodated
- bundled tasks

#### **Workplace parties consider further accommodation needs:**

- collective agreement e.g., scheduling
- safety e.g., ergonomics (ceiling lifts, etc.), transportation, etc.

#### **Workplace Parties Agree**

- worker placed
- safety monitored by RTW committee, occupational health nurse, health care provider, JHSC (during regular inspections) and accommodations made as needed

#### **Workplace Parties Do Not Agree (H&S concern)**

#### **EMPLOYER OFFERS WORK**

(union must be involved – OHRC case law)

#### **Engage IRS**

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- if unresolved, certified member JHSC consider initiating work stoppage process (section 45 OHSA)
- if unresolved after stage 1, and worker continues work refusal, MLTSD must be called (section 43 (6) OHSA)
- MLTSD investigates and makes decision
- WSIB resumes file adjudication

**Consider filing a grievance for violation of collective agreement.**

## Decision Points Algorithm for Safe Return to Work

### Situation 3:

Worker returns to work and develops health and safety concern e.g. pain, belief that task is dangerous, etc.

#### Engage IRS

- worker reports health/safety concern to supervisor/employer (section 28 OHSA)
- if unresolved engage JHSC
- if necessary, union and/or JHSC remind employer and WSIB that no change in WSIB benefits until IRS exhausted
- if unresolved consider calling MLTSD with complaint (MLTSD to respond on priority basis to worker with limited right to refuse as per April 2005 memo)

#### Consider work refusal/work stoppage

- if unresolved, worker consider exercising right to refuse unsafe work (section 43 OHSA, and ONA Guidance Document)
- if necessary, union and/or JHSC point out "work refusal" to employer and/or WSIB
- if unresolved, certified member JHSC consider initiating work stoppage process (section 45 OHSA)
- if unresolved after stage 1, and worker continues work refusal, MLTSD must be called (section 43 (6) OHSA)
- MLTSD investigates and makes decision
- WSIB resumes file adjudication

**Consider filing a grievance for violation of collective agreement.**