

SAFETY AND HEALTH

Duty to Accommodate

When a worker returns to work after being absent as a result of a work-related accident or occupational disease, the employer must make a real and reasonable effort to allow the person to return to work. This is known as the duty of reasonable accommodation.

The purpose of this duty to accommodate is to:

1. Promote the worker's rapid and sustainable return to work with his or her employer.
2. Ensure better protection of the employment relationship.
3. Preventing discrimination against workers.

Employer's Obligations

The duty to reasonably accommodate takes many forms, including:

1. The obligation to reinstate a worker who becomes capable of performing his or her job, suitable employment or [equivalent employment](#) after the expiry of his or her right to return to work.
2. The employer's obligation to cooperate in the implementation of [rehabilitation](#) measures in its establishment.
3. The employer's obligation to put in place another measure to make the worker capable of performing suitable [employment](#) available in his or her establishment, such as the adaptation of tasks and the modification of the work schedule or organization, if these measures do not distort the nature of the job.

Determining a Worker's Capacity

The employer must provide the CNESST with the information and documents necessary to determine the worker's ability to hold his or her job, an equivalent job or a [suitable job](#) available with the employer.

This may include:

1. the detailed description of the jobs with the employer
2. the physical demands of these jobs and their availability
3. opportunities for adaptation and reorganization of work
4. the provisions of the collective agreement, if applicable

The CNESST may ask the employer for access to workstations in order to render a decision on:

1. the worker's ability to hold employment with his or her employer
2. the availability of suitable employment with the employer

If the employer does not cooperate or refuses to reinstate the worker, the CNESST may impose an administrative monetary penalty. This penalty is equivalent to the income replacement indemnity to which the worker may have been entitled during the period when the employer was in default.



If the employer disagrees

The employer can show that the accommodation imposes undue hardship. The CNESST will analyze the relevance of the information provided by the employer.

The employer may also contest a decision of the CNESST.

