



**FÉDÉRATION DU PERSONNEL DE SOUTIEN
DE L'ENSEIGNEMENT SUPÉRIEUR (CSQ)**

APPLICATION GUIDE FOR SUPPORT STAFF MEMBERS

WHAT IS AN INDUSTRIAL ACCIDENT?

**WHAT SHOULD YOU DO IF
IT HAPPENS TO YOU?**

WHAT ARE YOUR AVENUES OF RECOURSE?

When in doubt, contact your Union

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INTRODUCTION

Many employees who would be entitled to benefits from the Commission de la santé et de la sécurité du travail (CSST) never bother to report their industrial accidents to the Employer.

Why don't they fill out an accident report?

- Because they believe it will be easier to get disability benefits (salary insurance) than to try to get CSST benefits by claiming they suffered a work accident.
- Because they believe that the accident they suffered was nothing special and they think that a work accident has to be an extraordinary event.
- Because they think it's too complicated to file a report, and that it will take too much time.
- Because they think it's a waste of time since they have continued to work, without taking any days off, in spite of the accident.

We have all experienced the following, without going to the Human Resources Department to fill out an accident report:


- bumping into the corner of a desk ;
- cutting ourselves on a sheet of paper or with a scalpel;
- hurting a shin or an ankle with an awkward movement;
- falling down stairs.

None of these situations resulted in an immediate absence from work, but each could eventually entail an absence from work.

From now on, **it is essential that you take a few minutes to fill out the *Worker's claim form* in order to safeguard your rights.**

How can you possibly know whether or not there will be aftereffects in the days following the event?

You bump your knee on a piece of furniture, you limp a little, you feel a little pain but it's tolerable, and then two weeks later you are no longer able to walk so you see your doctor and he gives you a medical certificate recommending that you take at least two weeks off work. During this visit to your doctor, you forget to mention the incident that occurred a few days previously.

 **This approach will have a direct impact on your rights.** Instead of work injury benefits, you will be forced to rely on salary insurance.

WHAT IS AN INDUSTRIAL ACCIDENT?

According to the law, an « industrial accident » is a sudden and unforeseen event, attributable to any cause, which happens to a person, **arising out of or in the course of his or her work**, and resulting in an employment injury to that person.

An « employment injury » is an injury or disease arising **out of or in the course of** an industrial accident, or an occupational disease, including a recurrence, relapse or aggravation.

An accident which **arises out of the course of work**, is an accident directly related to the execution of the work for which you are being paid.

An accident which **arises in the course of work** is an accident which, without necessarily being directly caused by work, was the result of an action related to your work, an action which was more or less essential to the performance of this work. The concept of “in the course of work” refers to an accident which occurred while you were engaged in an activity related to your job, even if this action was not optional

WHAT IS A SUDDEN AND UNFORESEEN EVENT?

Courts have ruled that these terms can be applied to daily activities, such as repetitive movements, an uncomfortable position or awkward movements related to a person’s habitual work. Evidence demonstrating the specific circumstances which gave rise to the injury is still required.

- **What are the determining criteria?**

For an industrial accident to occur, there must be a **real (direct or indirect) link between performance of work and the activity carried out** at the time the accident occurred. The activity must also have been carried out under the control and authority of the Employer.

- **What does the jurisprudence say?**

The Commission des affaires sociales (CAS) was asked to define what an accident is. The CAS determined that “the term accident can be broadly applied and can include, for example, awkward movements made an employee, a series of events instead of just one event, or harmful elements in the workplace...” (for example: exposure to a cold current of air).

RECURRENCE, RELAPSE OR AGGRAVATION:

According to CSST jurisprudence, certain elements are required to determine whether there has been a recurrence, relapse or aggravation:

- the seriousness of the initial injury ;
- the existence or non-existence of medical follow-up;
- the return to work with or without limited abilities;
- the presence or absence of permanent physical or psychological impairment;
- the presence or absence of personal medical conditions;
- the time that has passed between the recurrence, relapse or aggravation and the initial injury;
- the continuity of symptoms.

An analysis of causal factors is required to determine whether or not the person has recovered. Is the employee able to resume his or her job in a normal way?

The following are the rules that CSST bodies use to determine the burden of proof with respect to recurrence, relapse or aggravation:

- a preponderance of proof is required to establish that recurrence, relapse or aggravation is related to the initial event;
- this relationship cannot be presumed to exist;
- the accident victim's testimony alone is not enough to establish this relationship;
- medical proof is required to establish this relationship.

Considering how difficult it is to meet all of the above requirements, we recommend that you file a claim for a new industrial accident if something happens, instead of filing a claim for a recurrence, relapse or aggravation.

CONSOLIDATION

An injury is considered to be consolidated when the healing stabilizes, following which no improvement of the state of health of the injured worker is foreseeable. Consolidation of an injury is not the same as the ability to perform a job. Unfortunately, tribunals often consider consolidation and the ability to return to work as synonymous when they are actually completely different concepts.



WHAT DO YOU WRITE IN AN INDUSTRIAL ACCIDENT REPORT?

Many workers fail to accurately describe the facts related to an accident, which often results in the Commission de la santé sécurité au travail (CSST) refusing to acknowledge an occupational illness and denying income replacement benefits.

When describing an accident, it is essential to include three elements. The detailed description of the accident must specify the circumstances in which it occurred and accurately answer the following three questions:

Did you make an awkward movement? If you did, what was it?

Which tasks were you performing at the time?

Were you at your work station or somewhere else?

The description must include the following information:

- **the link to your job:** the accident happened while you were performing your job or during an activity related to your job (stairs, coffee break, parking lot);
- **the nature of the injury or injuries** which ensued;
- **the injury** occurred in the workplace.

EXAMPLE OF A REPORT

A worker described an accident as follows: *«an injury to my left shoulder when I was mopping a floor».*

The CSST ruled that this was not an industrial accident because no sudden or unforeseeable event was reported.

So what should you write?

Here are some examples:

1. As a **manual worker** responsible for maintenance, I was rushing to complete my regular tasks when I made an awkward movement. I then felt a pain in my lower back. I continued to work all evening. The doctor diagnosed a sprain.
2. As a **computer technician**, in the process of installing some micro-computers I was securing the casing of a computer when I cut my right hand.
3. As a **secretary**, I was leaving my office when I lost my footing and struck my right knee on the doorframe. I felt pain in my knee and started to limp. During the night, I noticed a bruise on my knee.
4. While I was at my **work station**, my pen fell to the floor and rolled underneath my desk. I bent over to pick it up and struck my head on the desk. Later in the day, I felt a pain in my neck.
5. At the beginning of my **work day**, at around 8:10 a.m., after having parked my car, I entered my workplace through door n° X. I slipped on the floor because it was wet. When I stood up, I felt pain in my neck and lower back. The doctor diagnosed a sprain.

In all of the above-mentioned cases, the CSST must acknowledge an industrial accident because all of the three conditions established by the Law have been met:

- the presence of an injury, not a pain;
- the event occurred in the workplace;
- the victim was performing his or her duties.

Here are some examples of:

- injuries: sprains (vertebrae, lumbar, back, knee, etc.), fracture, pulled muscle, herniated disc.
Bursitis and carpal tunnel syndrome can be recognized as injuries.
- pains: «algias» in general, back pain, lumbago.
Claims are often refused when the injury is simply described as a pain. It's easier to have a claim accepted when a doctor provides a medical diagnosis.

If these three conditions are met, it is presumed to be an occupational illness. No additional evidence is needed to have it recognized as such by the CSST.

But each case is different and must be examined on its merits depending on the facts and circumstances of the accident.

The Act respecting industrial accidents and occupational diseases states that an accident that happens in the workplace while a person is performing their job is an industrial accident if the three conditions are met.

Note : If your claim is lacking one of these elements, it could be rejected by the CSST or contested by the Employer.

It is also important to mention all injuries or parts of the body affected by the accident in order to make it possible to claim that these injuries were caused by the accident.



WHAT SHOULD YOU DO IF IT HAPPENS TO YOU?

What should you do if you are injured while at work?

When an accident occurs you must:

- notify the Employer immediately (your immediate supervisor or the Human Resources Department);
- see a doctor of your own choosing and, if necessary, get a medical certificate;
- fill out the *Worker's claim* form as soon as possible;
- send a copy of the *Worker's claim* form to your Union.

It is very important to report the work accident, even if the injury does not require you to be absent from work, because the injury can have aftereffects hours or days after it occurs.

When your Employer receives your medical certificate, he must fill out the *Employer's notice* form and send it to the CSST. **The Employer cannot ignore this obligation.**

The Employer is obliged to send this form to the CSST and then contest the accident if he so desires. **If he refuses, notify your Union.**

You can refer to the guide entitled *CSST benefits vs. Employer benefits – a comparison of rights between a work accident and the salary insurance plan*

ATTENTION

Keep copies of all documents related to your accident. Keep a file which includes the following documents:

- the *Worker's claim* form;
- the CSST forms;
- medical prescriptions;
- medical certificates and reports;
- the CSST claim;
- etc.

REPORT YOUR WORK ACCIDENT

You must report your work accident immediately to a person in authority in your establishment (a manager) by explaining all of the circumstances of the accident and describing in detail, if relevant, all of the pains and injuries caused by this accident.

If your health permits, on the same day on which the accident occurs, go to your Human Resources Department and fill out the *Industrial accidents register* yourself. **Make sure that all of the information on this form is accurate before you sign.** If you are not able to do this on the day the accident occurs, you can do it shortly after.

SEE A DOCTOR

If you feel pain or have an injury, no matter how minor it is, see a doctor immediately (ideally on the same that the accident occurs). Tell the doctor that you had an accident at work and, once again, describe in detail every pain and every injury that was caused by the accident.

The doctor will charge a fee to fill out the medical forms required by the CSST (medical certificate, medical report, etc.). You must then bring all of these documents to your Human Resources Department.

FILE YOUR CLAIM

If your doctor prescribes time off work or treatment (ex. : physiotherapy), you must go straight to your Human Resources Department to fill out the *Worker's Claim* and to sign the *Employer's Notice and Reimbursement Claim* (CSST forms). The Employer is responsible for sending these to the CSST.

WAIT FOR THE CSST'S WRITTEN DECISION

The CSST will take between 6 to 10 weeks to render a written decision which will either acknowledge or not acknowledge your industrial accident.

CONTESTING AN UNFAVORABLE DECISION

An unfavorable written decision from the CSST can be appealed within 30 days of reception of this ruling.

This deadline is absolute, in other words, if you fail to file for an appeal within 30 days, your case is « dead », no matter how solid it may be.

Write the date you received the ruling on the CSST envelope and make sure you don't lose it.

Contact your Union for more information or to have them represent you at CSST hearings.

MEDICAL EXPERTISE – BUREAU D'ÉVALUATION MÉDICALE

It is possible that the Employer and the CSST will oblige you to consult a medical expert of their choosing. You have to cooperate. If these medical experts disagree with your doctor's diagnosis, your case could be submitted to the Bureau d'évaluation médicale (BEM). A government-appointed doctor will then examine you and submit a written opinion. The CSST is then bound by this opinion and must render a decision.

The Union or the Employer may then contest this decision.

SALARY

You will receive your full salary (100% of your net income) while you are waiting for this decision, but your pay stub will be different. In this interim period you will be paid by the CSST.



See the guide [CSST benefits vs. Employer benefits – a comparison of rights between a work accident and the salary insurance plan.](#)

DÉADLINES FOR FILING A CLAIM

Report the industrial accident to the
Human Resources Department



Wait for the written decision from the CSST



An appeal may be filed within 30 days of receiving the
written decision from the CSST



A telephone inquiry will be made to get the verbal or written
reactions of the accident victim or the Union.
The CSST will rule on the appeal in an administrative review



The administrative review ruling can be contested
within 45 days of reception



An appeal can be filed with the CLP
(Commission des lésions professionnelles)

