

A2500038 (Re), 2026 CanLII 89025 (BC WCAT)

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DECISION OF THE WORKERS' COMPENSATION APPEAL TRIBUNAL

WCAT Decision Number: A2500038
WCAT Decision Date: July 14, 2026
Panel: Debbie Sigurdson

Introduction

- [1] This appeal is about the worker's complaint that the employer engaged in a prohibited action after she raised safety concerns.
- [2] The worker was employed as an occupational health and safety specialist at a project site on a fixed term contract starting in 2018. She filed a complaint of prohibited action with the Workers' Compensation Board (WorkSafeBC) on May 12, 2023, claiming that her employer had taken prohibited action against her contrary to section 48 of the *Workers Compensation Act* (the Act).
- [3] WorkSafeBC invited submissions from the worker and from the employer. On November 20, 2024, a legal adjudicative officer concluded that many of the worker's allegations were not substantiated and did not amount to a prohibited action. The legal adjudicative officer concluded that the employer's actions of suspending the worker's return to work and pausing an investigative process were not in any way motivated by the worker raising safety concerns.
- [4] The worker appeals the decision to the Workers' Compensation Appeal Tribunal (WCAT).
- [5] The employer is participating in the appeal and is represented by legal counsel. An oral hearing had been scheduled. The worker objected to participation of parties or witnesses virtually. The employer agreed to have its instructing witness and legal counsel attend in person. The worker made requests for summons for witnesses to attend the hearing which included employees of the employer, who had provided information to WorkSafeBC about the worker's complaint.
- [6] Before the worker's requests could be considered, the worker then refused to attend if the employer's instructing witness attended the oral hearing. The worker made vague allegations that the attendance of the employer's instructing witness, or any person from the employer, would cause her harm. It was not necessary to decide the worker's request for orders for attendance of persons from the employer to attend the hearing, given she was refusing to attend the hearing if any person from the employer was present at the hearing.
- [7] I determined that the employer as a party to this appeal had the right to hear the evidence and to respond. This included the right to have an instructing person from the employer present at the oral hearing, to instruct the legal counsel. I declined the worker's request to exclude the employer's instructing witness from the hearing as it would not be procedurally fair to exclude

the employer from the hearing as a respondent to the appeal. The worker continued to refuse to attend the scheduled oral hearing, which did not proceed.

- [8] This appeal has now proceeded by written submissions. The worker's credibility is not in dispute. Both parties provided extensive submissions and documentary evidence in the WorkSafeBC proceeding. To the extent that there are facts in dispute, I can resolve them from the written record. The worker provided written statements that at times lacked detail. The information, however, is sufficiently complete when I consider the extensive objective documentary evidence from both the employer and the worker in reply, which includes several email chains, medical documentation, and notes made at the relevant time.
- [9] Both parties were provided the opportunity to make submissions; however, none were received. I will consider their submissions provided to WorkSafeBC in making my decision.

Issue(s)

- [10] Did the employer take a prohibited action against the worker?

Jurisdiction

- [11] Section 289(1) of the Act provides a right of appeal to the WCAT of a decision made under section 50 regarding a complaint of prohibited action.
- [12] WCAT must make its decision on the merits and justice of the case and apply the policy of WorkSafeBC's board of directors (section 305 of the Act). The *Prevention Manual* at Part 2, Division 6, Worker Protection in Relation to Prohibited Actions, is the policy that applies to this appeal.
- [13] The worker claimed the employer engaged in prohibited action in October 2020 (among other dates in 2023). A complaint of prohibited action must be filed within one year of the date of the prohibited action as set out in section 49(3) of the Act. The worker filed her complaint on May 12, 2023. The alleged prohibited actions in October 2020 are out of time and will not be considered in this decision.
- [14] The worker also referred to events that occurred after she filed her complaint on May 12, 2023 in her submissions to WorkSafeBC. The context of the complaint before me concerns events up to May 12, 2023, but not after that date. A complainant cannot file a complaint that captures all potential future actions they believe are a prohibited action. The worker's remedy is to file a new complaint about alleged prohibited actions that may have occurred after May 12, 2023.

Preliminary Matters

- [15] The worker made several written requests related to the handling of her appeal prior to the hearing date.

- [16] This included a request to consolidate her compensation claim with her prohibited action complaint. WCAT does not have supervisory or other capacity to direct consolidation of claims and complaints by WorkSafeBC. The worker's complaint of prohibited action under the Act at Part 2, Division 6, Worker Protection in Relation to Prohibited Actions, is separate and distinct from her claim of workplace injury under Part 4, Division 1, Compensation for Injury, Mental Disorder and Occupational Disease. The worker's compensation claim is not before me in this appeal.
- [17] The worker referenced various provisions of the WCAT *Manual of Rules of Practice and Procedure* (MRPP). I observe that at times the purported sections of the MRPP that the worker appears to quote from do not and did not exist as stated in her submissions. As example, the worker in her August 14, 2025 submission to WCAT refers to the criteria for postponement of an oral hearing in exceptional circumstances. She lists three examples:
- Serious medical or psychological issues
 - Unforeseen unavailability of essential evidence or witnesses
 - Ongoing investigations that materially affect the fairness of the hearing¹
- [18] The MRPP at item 14.1.2 sets out WCAT's rule for postponement of an oral hearing. There is no mention of ongoing investigations as a reason to postpone a hearing.
- [19] The worker also submitted that there were jurisdictional or legal issues "that were either overlooked or improperly determined in the Review Division's decision and/or the original decision of the Board." A prohibited action complaint cannot and was not the subject of a Review Division decision.
- [20] In her August 2025 submissions, the worker referred to and relied on several federal statutes, the federal court rules, and cases of the federal court. The federal court rules and federal statutes do not apply to WCAT, as a legal entity established by the Act, and subject to provincial laws.
- [21] It appears the worker may have made use of artificial intelligence to guide her submissions and, in doing so, she has provided inaccurate and incorrect information to the tribunal.
- [22] In *WCAT Decision A2501051* the vice chair noted:
- ... It is widely known that large language-based artificial intelligence models can prepare lengthy submissions that sound like they were written by a person with expertise. However, these models can also "hallucinate" legal cases, meaning they make them up. (See, for example, *Zhang v. Chen*, 2024 BCSC 285 at paragraph 38, or *Geismayr v. The Owners, Strata Plan KAS 1970*, 2025 BCCRT 217 at paragraph 25).

¹ All quotations are reproduced as written unless otherwise noted.

- [23] The vice chair concluded that artificial intelligence at that time was not a reliable tool for legal research and it should not be relied on for legal cases.
- [24] I note that decision was made in the same month as this worker provided her pre-hearing submissions to WCAT. I agree with the reasoning of the vice chair in A2501051. I echo the vice chair's warnings that submissions founded on artificial intelligence may have no basis in law and may not be addressed by the decision maker. Such is the case here. I do not find it necessary to respond to the worker's submissions on procedural matters when they are founded on inaccurate information and statutes that do not apply to WCAT.

Evidence, Reasons and Findings

- [25] A worker must establish a basic or *prima facie* case of prohibited action. This is a bare outline of the complaint that will prevail unless it is contradicted or overcome by other evidence, on a balance of probabilities.
- [26] I find the worker has not established a basic case of prohibited action and that her appeal must be dismissed. My reasons follow.

Prima Facie (Basic) Case

- [27] The worker's complaint of prohibited action is in relation to events that occurred between January and May 2023. On January 25, 2023, the worker met with a director, reported experiencing bullying and harassment in the workplace, and started a sick leave. On February 3, 2023, the employer referred her to its health and recovery services. In February 2023 the worker spoke to the recovery and return to work coordinator and reported that she was experiencing bullying and harassment from her co-workers and specifically from her direct supervisor. The recovery and return to work coordinator provided the worker with information on how to proceed with her bullying and harassment complaint.
- [28] By March 3, 2023, the worker was medically cleared to return to work, which she did on March 9. Shortly after, on March 15, 2023, the worker saw two cannabis cigarettes in her work vehicle. Possession or use of cannabis at the worksite is prohibited. The worker believed that the cannabis was placed in her truck by others. The employer started an investigation.
- [29] The worker started a second medical leave on March 21, 2023. The worker indicated she was ready to return to work on March 27, 2023; however, the employer requested the worker provide medical information around her capacity to safely return to work. She did not return to work.

- [30] The worker filed a complaint of prohibited action on May 12, 2023. On her complaint form, the worker said the employer engaged in coercion and intimidation on January 25, 2023, disciplined or penalized her on March 15, 2023, and discontinued her job effective March 27, 2023, or alternately suspended her that date. The worker also said the employer breached her privacy because “everyone at work knows what is going on and that [she] made a complaint against them” and that “within two days after [her] complaint [her] Archived emails disappeared.” The worker said these other events occurred October 24, 2020.
- [31] Later in her complaint form, the worker said she received a disciplinary letter which she referenced as “Ref. July 14th or 17th letter and Grievance 1 and 2”, that three police cars and an EMS (Emergency Medical Services) unit were dispatched to her house without a good reason, and that the employer would not accommodate her when “covid hit”.
- [32] The worker also documented the following allegations on her complaint form:
- That she was told to stay home and not allowed back to work;
 - That the employer denied her “complaint and launching an investigation for Bullying and Harassment”;
 - That the employer did not follow procedure for investigating the drugs found in her truck;
 - That the investigator, who the worker felt was biased, wrote a summary about her that she was unstable and then disclosed this to her manager, who in turn disclosed this to the work leads;
 - That the employer failed to take corrective action to protect her from recurrence;
 - That her access to documents was limited after she reported bullying and harassment;
 - That the employer did not locate and contact the witnesses she had identified.
- [33] The worker believed that if “it” happened again, she would be looked at “once again as the one” who “did it”.
- [34] The worker later raised concerns about not being provided a temporary job in another department.
1. Did the employer engage in a prohibited action?
- [35] The first requirement of a basic case is that the employer took a prohibited action against the worker. The Act at section 47(1) defines a prohibited action broadly to include, in part, any act or omission by an employer that adversely affects a worker with respect to any term or condition of employment. Examples provided in section 47(2) include, in part, suspension, lay-off, dismissal, coercion or intimidation, and discontinuation or elimination of the worker’s job.

- [36] Not every action of an employer amounts to a prohibited action; rather, the act or omission must adversely affect a term or condition of the worker's employment. Several of the worker's complaints relate to her dissatisfaction with the quality of the employer's investigation about the cannabis in her work vehicle. She raised concern about breach of privacy. Other complaints relate to her perception of the behaviour of her colleagues and direct supervisor, which are related to her allegation of bullying and harassment.
- [37] While these alleged actions were upsetting for the worker, they do not adversely affect a term or condition of her employment. The worker's allegations of bullying and harassment form the subject of her claim for mental disorder, which is not before me in this appeal. On the evidence before me, I do not find that the worker experienced an adverse effect on a term or condition of her employment from the way the employer conducted its investigation of the cannabis found in the vehicle. As explained below, the worker was not disciplined or reprimanded for reporting the presence of the cannabis. The worker's complaints about breaches of her privacy also are not within the scope of a prohibited action complaint, as the evidence does not demonstrate how this is a term or condition of her employment.

Coercion and Intimidation

- [38] I find that the employer did not engage in coercion or intimidation on or around January 25, 2023. Coercion and intimidation have been defined in prior WCAT decisions, including *WCAT-2004-05922* and *WCAT-2004-04688*. Coercion means to use force to compel something, and intimidation is to imply a threat or abuse of their authority to make a person feel afraid. The vice chair in *WCAT-2004-05922* found that intimidation did not arise every time an employer says something a worker does not like or that causes a negative emotional reaction
- [39] The worker has not provided details to substantiate her complaint that the employer's alleged activities on or around January 25, 2023, were coercive or intimidating. It is not entirely clear who the worker says had coerced or intimidated her, or what actions she considered were coercive or intimidating. The record shows the worker commenced a medical and bereavement leave on this day. I have looked at the evidence around the time the worker started this leave.
- [40] The worker had met with her supervisor's manager (the director) on January 25, 2023², to raise concerns about the department, including a toxic work environment that was affecting her work. The worker says the director suggested the worker take three weeks off work to "reset". The worker understood the director suggested the worker had a medical problem and the worker questioned whether the director had obtained personal information.

² There is conflicting evidence as to whether this meeting took place on January 24 or January 25, 2023. For this appeal I have relied on the worker's evidence that the meeting date was January 25; however, nothing turns on the exact date of this meeting in January 2023.

- [41] The worker's description of her interaction with the director does not lead me to conclude that the director coerced or intimidated her. Both the worker and the employer provided copies of follow up emails to the conversation. The worker and the director had several exchanges which show the worker was given the option to take a leave and, in those email communications, the worker expressed agreement with this plan. I do not find the communications were coercive or intimidating.
- [42] The worker also acknowledges this in her May 21, 2024 submission to WorkSafeBC where she stated, "I agreed to take the time off..." The evidence of the interactions between the worker and director does not lead me to conclude that the director had coerced or intimidated the worker on or around January 25, 2023. The worker's submission together with the email communications around this time show that the director listened to the worker's concerns and provided information and options.

Loss of Opportunity for Promotion

- [43] Section 47(2)(b) of the Act includes the loss of opportunity for promotion as a prohibited action. The worker says that she thought she would be moving to a different position with a different department and that this new job opportunity was a higher position for her. The worker says she was not provided this position.
- [44] The worker's evidence on this point is vague and non-specific. She did not identify the job she says she had applied for, or the dates of when this occurred. The worker has not provided evidence that she did not get the job at a different worksite location because she raised a safety concern. It is not apparent that the worker experienced a loss of opportunity at all or, if she did, that it occurred at or after she raised safety concerns. I find the worker has not established that she experienced a loss of opportunity for promotion.
- [45] Further, the worker raised this alleged prohibited action in her submissions to WorkSafeBC in May 2024, more than one year after she filed her complaint. The worker referred to her conversation with the employer's director on January 25, 2023 that she was not provided a temporary job in a different department. First, the worker raised this alleged prohibited action more than one year after it occurred, in her 2024 submissions, and not on her complaint form, such that it would be statute barred if the worker were to file a complaint. Second, based on the worker's evidence, the alleged loss of opportunity occurred before January 25, 2023. Therefore, the alleged prohibited action occurred before the worker raised safety concerns (as discussed below).

Discipline

- [46] Section 47(2)(e) says that a prohibited action includes imposition of any discipline, reprimand, or other penalty. On her complaint form the worker describes events she characterizes as discipline or other penalty which appear to have occurred more than one year before she filed her complaint, or alternately that were the subject of grievance through her union. This includes not providing accommodation “when covid hit”, and “Disciplinary letter – (Ref. July 14th or 17th letter and Grievance 1 and 2 and all correspondence”. The worker did not provide dates or supporting documentation.
- [47] Based on the limited information the worker provided about these events, I find that they either occurred more than one year before she filed her complaint or they were the subject of a grievance. In either case, the Act precludes consideration of these bare allegations. A complaint must be filed within one year of the prohibited action. A matter that is subject of a grievance procedure cannot be the subject matter of a prohibited action complaint (see section 49 of the Act).
- [48] The worker also points to the employer’s handling of her report of cannabis in her work vehicle as amounting to discipline. She has not explained in what way the employer engaged in disciplinary action towards her when it investigated the incident. The information before me shows that the person investigating the matter reviewed security information but could not conclude that the individuals that the worker had suggested had put the cannabis in her vehicle had left the building at the time in question.
- [49] While the worker objects to how the employer conducted this investigation, I do not find her concerns reflect that the employer disciplined her for making the report. The worker has not explained how the employer took adverse action against her that affected a term or condition of her employment. The email documentation provided by both the worker and the employer shows that the employer thought the worker had done the right thing. The employer did not place blame or take any disciplinary action against the worker for reporting the cannabis.
- [50] Further, I am unable to find evidence that the employer disciplined or reprimanded the worker in the period under review. While extensive documentary evidence was provided by both parties, the record does not reveal that the worker received a reprimand, warning, or formal or informal discipline from the employer.

Termination or Suspension

- [51] The worker raises several objections about the employer’s management of her medical leaves and suggests these actions amount to suspension or termination of her employment.

- [52] I agree with the legal adjudicative officer that the worker's evidence does not establish that the employer terminated the worker's employment on or around March 27, 2023, or at any time up to when she filed her complaint of prohibited action on May 12, 2023. The fact the employer requested medical information to support the worker's safe return to work does not establish that the worker was terminated from her employment. The information the worker provided indicates she remained an employee of the employer beyond May 12, 2023, the date on which she filed her complaint. This is apparent from email communications between the worker and the employer in early June 2023. I am satisfied that the employer did not terminate the worker's employment on or before May 12, 2023. Rather, the evidence shows the worker remained on a medical leave until the fixed term of her contract with the employer concluded, well after the time period in question in this appeal.
- [53] I am also not persuaded that the employer suspended the worker from her employment when the employer required that she provide medical information to ensure her safe return to work following two medical leaves. Section 47(2) of the Act says that prohibited action includes (a) suspension, layoff or dismissal. The worker does not say that the time periods in question were a disciplinary suspension. Rather, she says that the employer would not let her return to work from medical leaves without providing medical evidence about her ability to return to work. The question here is whether the employer's requests for medical information amounts to a suspension as contemplated by section 47(2) of the Act.
- [54] An employment suspension is the temporary removal of a worker from their regular job duties and/or from the workplace. A suspension may be disciplinary or administrative, and it may be with or without pay. A disciplinary suspension is used for performance management or for violation of company policies. As noted above, there is no evidence the employer disciplined the worker at or around the times of her leaves, nor does the worker say that was the case. An administrative suspension occurs when an employer needs to temporarily remove a worker from the workplace while they investigate allegations of misconduct, a grievance, or a serious workplace incident.³
- [55] For the two time periods in question, the worker initiated the leave from the workplace for medical reasons. The employer did not suspend the worker when she stopped work January 25 or March 21, 2023. The employer did not require the worker to stop work on either date. I am satisfied that the reason the worker stopped work was not because of a suspension. The question here is whether the employer's action of requiring medical information before the worker could return to work from a medical leave amounts to an administrative suspension or to an act or omission that adversely affected the worker with respect to a term or condition of her employment.
- [56] The first leave took place between January 25 and March 6, 2023. The worker says the employer "blocked" her from returning to work in February 2023 by requiring that her doctor provide medical information. This delayed her return to work because her doctor was on vacation for two weeks and she could not obtain the requested medical information. The worker

³ See *Cabiakman v. Industrial Alliance Life Insurance Co.*, [2004] 3 S.C.R. 195, 2004 SCC 55, *Potter v. New Brunswick Legal Aid Services Commission*, 2015 SCC 10, [2015] 1 S.C.R. 500.

provided WorkSafeBC with an attending physician's statement, sick leave support, completed by her physician on March 1, 2023 on which the physician noted the worker could medically return to her job on March 3, 2023.

- [57] The fact the worker's physician was not available to provide the medical information does not lead me to conclude that the employer was in any way responsible for a delay or that the delay amounts to a suspension. The medical information the worker provided from her doctor does not suggest that she was medically able to return to work prior to March 3, 2023. The worker has not pointed to a negative employment consequence arising from the employer's request for medical information to support her safe return to work in February/March 2023.⁴
- [58] The second leave commenced March 21, 2023, when the worker started a medical leave of her own choice. The worker further alleges that the employer refused to allow her to return to work on or around March 27, 2023. The worker explained that she had several meetings with the employer, with her union, and with a field investigator around this time. Both the worker and the employer have provided copies of numerous emails that set out the events in late March and April 2023.
- [59] The employer told the worker it would require medical information to support her safe return to work. Several meetings and email exchanges ensued between the worker and her union, the worker and the employer, and the union and the employer. It appears the worker obtained a medical note around April 3, but she did not want the employer to have it. The written communications suggest the union provided the medical note to the employer on or around April 6. The medical note indicated that the worker needed to move to a different position or work location due to medical reasons.
- [60] The employer requested further medical clarification around the worker's functional limitations and restrictions related to her ability to perform her safety sensitive job duties. This was set out in an April 19, 2023 letter to the worker's physician.
- [61] The worker provided a copy of a May 11, 2023 medical note from her doctor in which the doctor stated the worker was absent from work the past few months for mental health reasons, and that she "[was] good to go back to work"⁵. On May 17, 2023, the employer questioned whether the doctor had seen the employer's April 19, 2023 letter as the questions posed were not addressed. The employer asked that the worker follow up with her physician.
- [62] The worker provided a copy of a further medical letter dated May 31, 2023, in which the doctor confirmed the earlier recommendation that the worker be transferred to a different position and work location. The doctor noted the worker had pending medical assessments in early June 2023, after which further medical information and forms could be completed.

⁴ The worker received sick pay and/or short-term disability benefits when on medical leaves. She later received long-term disability benefits.

⁵ The employer says it received the note on May 16, 2023.

[63] I am unable to find that the employer's request for medical information to ensure the worker was medically fit to return to work amounts to a suspension of her employment. An employer has an obligation to ensure a worker is safe to perform the job duties. This is particularly so here, where the worker was employed in the construction industry in a safety sensitive position. The medical information the employer requested was to ensure the worker was medically fit to return to work and to clarify potential accommodations. The worker has not shown how the employer's actions amount to a suspension of her employment; rather, the worker remained on a medical leave until after she filed her complaint of prohibited action. I find the employer did not suspend the worker's employment when it requested medical information to support her safe return to work and to clarify accommodation needs.

[64] If a worker had provided an employer with a medical note to confirm they were able to safely return to work and an employer refused the return, this may amount to a suspension. That is not what occurred following either of the worker's medical leaves. I find the employer did not suspend the worker from her employment between January and May 2023.

Other

[65] The worker's submissions to WorkSafeBC include several allegations about conduct of others in the workplace that was related to her claim of bullying and harassment, including her belief that colleagues and the work lead were talking about her and sharing private information about her. In a prohibited action complaint, the truthfulness of a claim of bullying and harassment is not relevant; rather, the focus is on whether the worker reported bullying and harassment (which she did), whether the employer engaged in a prohibited action, and whether there is a causal connection between the two. I make no findings on the worker's allegations of bullying and harassment.

[66] The worker alleges the employer stopped its investigation of her bullying and harassment complaint. From my review of the documentation, the employer was in the initial stages of its internal process of investigating the worker's concerns. The employer "paused the process" around April 5, 2023 so that it could ensure the worker was medically fit to participate in the investigation, for her safety. It is not clear that the employer did stop an investigation; rather, the employer was in the initial phase of starting the investigation and wanted to confirm the worker's fitness to participate in the process. The worker was on a medical leave at the time. A doctor's note provided in early April 2023 suggested she needed accommodations. I am unable to find that the employer seeking medical clarification before proceeding with an internal investigation is a prohibited action as contemplated by section 47(1) of the Act.

[67] In summary, I find the worker has not established that the employer took a prohibited action against her. The worker's appeal must fail. For completeness, I have briefly considered the other elements of a prohibited action complaint.

2. Did the worker engage in a protected safety activity?

- [68] The second component of a basic case of prohibited action is whether the worker engaged in a protected safety activity as described in section 48 of the Act. This includes that the worker has given information regarding conditions affect the occupational health or safety or occupational environment of that worker to the employer or person acting on behalf of the employer.
- [69] On or around January 25, 2023, the worker raised safety concerns about working in a toxic work environment that she believed affected her safety at work. On at least two occasions (February 15 and March 21, 2023) the worker raised concerns about bullying and harassment with a person acting on behalf of the employer. In addition, on March 15, 2023 the worker reported discovering cannabis in the work truck. I find the worker has established this component of a basic case by raising safety concerns about her workplace.

3. Is there a causal connection between the worker engaging in the protected safety activity and the employer taking the prohibited action?

- [70] The final requirement for a basic case of prohibited action is whether the worker has established a causal connection between the employer taking the prohibited action and the worker engaging in a protected safety activity. The worker's evidence must establish that the negative employment consequence followed the worker engaging in the safety activity. While a temporal relationship may provide evidence of potential causal connection, this alone may not always suffice. The worker's evidence as a whole must be evaluated to determine whether a reasonable person would conclude that one event was causally connected to the other.
- [71] The worker's evidence falls short of establishing that any of the alleged prohibited actions, had they occurred, were causally connected to her reports of safety concerns. There are two principal reasons why the causal connection is not established.
- [72] First, many of the worker's allegations of prohibited action occurred prior to her raising a safety concern. It is not possible for the employer to have retaliated against the worker for raising a safety concern when the worker had yet to make such a report at the time the alleged prohibited action occurred. For example, the worker's allegations of not receiving a promotion cannot be causally connected to her reporting safety concerns, as any potential loss of opportunity for promotion occurred before the worker raised her safety complaints. Similarly, the worker's allegation of coercion and intimidation and purported actions against her from her first medical leave cannot be causally connected to her reporting cannabis in the work vehicle based on the worker's timeline of events.
- [73] Second, the worker has not established beyond a mere temporal relationship that the employer took action against her after she reported the safety concerns. The worker has not provided information to suggest that her reporting of cannabis in the work vehicle has a causal connection to the employer requiring medical documentation about her capacity to safely return to work following the leave at the end of March 2023. My review of the email communications between the worker and the employer officers at the end of March and April 2023 does not connect the worker's reporting of the cannabis to the request for medical information. The

worker in her submissions did not allege that the employer would not let her return to work without medical documentation because she reported the cannabis in the work vehicle. There is not a causal connection between the worker reporting cannabis in the work vehicle on March 15, 2023, and the employer requiring medical documentation in early April 2023 for the worker to return to work from a medical leave.

- [74] The worker's report of bullying and harassment does appear in the communications between the parties around the time that the employer required medical information before the worker could return to work in April 2023. The worker has not explained how the employer was taking adverse action against her for reporting bullying and harassment. Rather, the contemporaneous documentary evidence shows that the worker made her report and the employer took initial steps to investigate her complaint, including taking steps to ensure the worker's own safety through the investigation process. The worker has not explained how the employer's request for medical information was in any way connected to her report of bullying and harassment or her reporting cannabis in the work vehicle. Had the employer taken a prohibited action (which I find they did not), there is not a causal connection to the worker reporting safety concerns.

The Employer's Rebuttal

- [75] As the worker has not established a prima facie case of prohibited action, I need not consider the employer's evidence about whether they have rebutted the worker's case. While not determinative of this matter, I agree with the legal adjudicative officer's analysis concerning the employer's evidence and find the employer has rebutted the worker's allegations of a prohibited action.
- [76] To rebut a prima facie case, an employer must establish that it was in no way motivated or "tainted" by the worker's engagement in the protected safety activity. This requires an employer prove that no part of its actions were motivated by the worker raising a health and safety concern.
- [77] The employer provided extensive affidavit and documentary evidence to WorkSafeBC in response to the worker's complaint. From my review of the employer's evidence, I am satisfied that it was in no way motivated by the worker raising safety concerns in requiring the worker to obtain medical information before she returned to work. I agree with the legal adjudicative officer that the employer was motivated solely by its concern for the worker's own safety and medical fitness to perform her safety sensitive job. The employer was seeking additional medical information to understand the worker's limitations and restrictions so that accommodation could be provided to promote a safe and durable return to work.
- [78] There is no causal connection between the worker raising safety complaints and the employer taking a prohibited action. The employer was in no way motivated by the worker raising safety complaints in its decision to require additional medical information prior to supporting the worker in a return to work and/or continuing the investigation of bullying and harassment.

Conclusion

- [79] I deny the worker's appeal and confirm the WorkSafeBC decision. The employer did not take a prohibited action against the worker.
- [80] The parties did not request reimbursement of appeal expenses, and, from my review, none are apparent. I make no order for reimbursement of expenses.

Debbie Sigurdson
Vice Chair