courtready

A2502164 (Re), 2026 CanLII 89041 (BC WCAT)

DECISION OF THE WORKERS' COMPENSATION APPEAL TRIBUNAL

WCAT Decision Number:	A2502164
WCAT Decision Date:	July 6, 2026
Panel:	Willa Forbes

Introduction

[1] This appeal is about whether the worker is entitled to wage-loss benefits beyond April 7, 2025, and whether the worker is entitled to a referral to Long Term Disability Services (LTDS) for assessment of permanent disability benefits.

[2] The worker sustained a bilateral lumbar region strain on October 28, 2024, while lifting a heavy bag of garbage out of its garbage can, at a city park.

[3] The Workers' Compensation Board (Board)[1] accepted the worker's claim and commenced paying health care and wage-loss benefits.

[4] In an April 10, 2025 letter, the Board determined that the worker was no longer temporarily disabled from work and concluded paying wage-loss benefits effective April 8, 2025. The letter made no express statement that the Board considered the worker entitled to a referral to LTDS, but rather these decisions were implied by way of its statement that "I do not identify any permanent functional impairment under this claim. No further healthcare benefits are medically warranted."[2]

[5] The worker sought a review of the Board's April 10, 2025 decision. In *Review Reference #R0337982* (August 20, 2025), the Review Division determined that the worker's bilateral lumbar region strain had resolved as of April 7, 2025, thus the worker was not entitled to a referral to LTDS for assessment of permanent disability benefits due to that condition. Moreover, the Review Division determined that the Board had made an implied decision to deny a referral to Vocational Rehabilitation Services (VRS); it confirmed that decision.

[6] The worker, who is self-represented, now appeals *Review Reference #R0337982* (August 20, 2025) to the Workers' Compensation Appeal Tribunal (WCAT). The employer was invited but is not participating.

[1] operating as WorkSafeBC

[2] All quotations are reproduced as written, unless otherwise noted.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

Preliminary Matter(s)

[7] There are several preliminary matters arising in this appeal, as follows.

Accepted Injury/Diagnosis

[8] On November 13, 2024, the worker was diagnosed with a lumbar strain. Later, in mid-December, the worker saw a different general practitioner who diagnosed a "rectus abdominal and oblique strain."[3] Later still, on January 24, 2025, a third general practitioner diagnosed a rectus strain. On June 28, 2025, the worker saw a fourth general practitioner who diagnosed a lumbar back strain. I observe that the worker's symptoms of pain/discomfort are not dissimilar, albeit that in mid-December the worker's range of motion (ROM) was limited by pain. I pause to observe the record is inconsistent with a November 2024 doctor report, when on examination the worker's ROM was not limited.

[9] The Board has accepted the claim for a bilateral lumbar back strain. Given that, while I acknowledge that the worker's symptoms were generally consistent throughout, nevertheless I restrict my decision to the worker's accepted injury.

Ongoing and/or Chronic Pain

[10] The worker states that he is entitled to further wage-loss benefits because he continues to have pain, among other symptoms which I discuss later. The worker states this indicates his condition has not resolved.

[11] The Board decision before me does not make a decision on chronic pain. The policies regarding chronic pain are found in the *Rehabilitation Services and Claims Manual, Volume II* (RSCM II), at policy item C6-39.10, *Chronic pain*. Chronic pain is defined as pain that persists six months after an injury and beyond the usual recovery time of a comparable injury.

[12] Therefore, I have no jurisdiction to consider whether the worker has chronic pain. As noted by the review officer in *Review Reference #R0337982,* the worker may ask the Board to make a decision on that question. Rather, the comment would seem to be merely an observation of the effect of the Board's determination that the worker's lumbar back strain had resolved.

Health Care Benefits

[13] The Board stated that "No further healthcare benefits are medically warranted."

[14] The April 10, 2025 Board decision does not contain any specific decision on a health care service or supply, which section 156 of the *Workers Compensation Act* (Act) provides that the Board may provide.

[3] block capitalization removed.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

[15] Subsection 156 (1) of the Act informs that the Board may provide for an injured worker any services or supplies that the Board considers reasonably necessary at the time of the injury and afterwards during the worker's disability to cure the injury or alleviate the effects of the injury.

[16] Policy item C10-72.00, *Health Care – Introduction*, provides the general principles, including the objectives and duration of health care. Health care continues for as long as the Board considers it reasonably necessary with respect to the worker's compensable personal injury. In making this decision, the Board may consider medical opinion or other expert professional advice.

[17] Policy item C10-73.00, *Direction, Supervision, and Control of Health Care*, explains that the Board determines all questions as to the necessity, character, and sufficiency of health care to be provided for injured workers. When making this determination, the Board may seek medical opinions or other expert professional advice to assist in determining if a given health care benefit or service is reasonably necessary.

[18] Policy item #101.01, *Changing Previous Decisions – General*, notes the mechanisms by which the Board may change its decisions. The policy clarifies the types of decisions that do not constitute a reconsideration or a reopening of a previous decision.

[19] Situations in which the Board may make a new decision on a matter not previously decided include[4] acceptability of additional medical conditions identified during the adjudication of a claim or acceptability of further injury or disease that arises as a consequence of a work injury. It further includes application of those sections of the *Act* which give the Board broad discretion to make decisions regarding entitlement at various times over the course of a claim. In applying these provisions, the Board may consider a new matter that arises as a result of new information or a change in circumstances that occurs after a previous decision. Two examples are health care benefits and vocational rehabilitation services.

[20] Pursuant to subsection 156(1) of the Act, it is always open to an injured worker to request the Board provide any services or supplies which may be necessary at the time of the injury and afterwards during the worker's disability to cure the injury or alleviate the effects of the injury.

[21] I find nothing in the Board's April 10, 2025 letter that makes a decision on a specific health care service or supply. I conclude that there is no appealable decision regarding health care before me in this appeal.

[22] The worker has submitted to WCAT two physiotherapy receipts and seeks reimbursement of these as health care expenses. I have no jurisdiction to consider these expenses; the worker may wish to provide these receipts to the Board and request a decision on those health care expenses.

VRS Benefits

[4] Include, but are not limited to.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

[23] In the August 20, 2025 decision under appeal, the Review Division determined that the worker was not entitled to a referral to VRS. Pursuant to paragraph 288(2)(c) of the Act, WCAT has no jurisdiction to consider appeals of VRS matters. Thus, I do not address that portion of the decision in this appeal.

No Supervisory Oversight of the Board or Review Division

[24] The worker makes a number of submissions regarding the nature and quality of treatment he received and the conduct of his claim generally.

[25] Item 3.1, *General*, of the WCAT *Manual of Rules of Practice and Procedure* (MRPP) states that WCAT does not have general supervisory jurisdiction over the Board or the Review Division. Therefore, I do not address these portions of the worker's submissions in the remainder of this decision.

Photographs of Workbook Not in Claims File

[26] The worker has provided six images (photographs) which appear to be taken of an "Arms and Back" program workbook (workbook). These images show select portions of the workbook with the worker's repetitions in terms of exercises performed for what, I take to be, the worker's customized recovery and return to work program (RTW program). In hand-written notation, I observe that the records indicate that the worker had primarily right sided pain and/or discomfort (including while riding a stationary bicycle). The worker's pain levels over a 5- to 6-day period went from pain levels of 3 or 4 out of 10 on a pain scale, with 10 being the most painful, over what appears to be approximately 1 month, down to 3, 2, or 1 out of 10. The worker states that this demonstrates records "Documenting right side pain/discomfort/missing pages from [freedom of information] Request."

[27] I contemplated whether the worker's claim file records were sufficient for me to determine this matter with confidence. I find that they are.

[28] The images provided do not demonstrate who recorded the notations; while they have what would likely be the day of the notation for the particular exercise (i.e. 25, 26, 26, 28, 5, 7, and 9 etc.), they do not indicate the year or, with one exception, the month. There is one notation of "March" which is sensible. However, the records then indicate 5, 7, and 9, which would be April. I observe the worker did not attend the program on April 7 or 9, 2025. Thus, it may be that the worker retained the workbook and made notations for those exercises which he did at home.

[29] The worker attended the RTW program from intake on February 6, 2025, to discharge on April 7, 2025. I note that the worker did not attend his first scheduled session, or his final assessment. There are eight further dates in which five times he was marked "no show". On the remaining three dates, he informed the program he could not attend due to dental work, sickness, and a family member passing away. On the final assessment day, April 7, 2025, the worker informed the RTW program that he was providing a ride to a close friend.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

[30] I observe that the RTW program provided summary reports of the worker's attendance and progress. The RTW report does summarize the worker's level of pain in terms of the exercises conducted. I observe that those records are reasonably consistent with the photographs. I find I may rely on the RTW records, the photographs provided by the worker, along with the remaining records on the worker's claim file.

Legal and Policy Framework/Artificial Intelligence

[31] The worker has included a section entitled "Legal and Policy Framework". It would appear that this information may have been generated via artificial intelligence as it contains some inaccurate information and references. I recognize that a self-represented party may find important assistance by way of this form of drafting, however I also observe that an appellant is responsible for the accuracy of their submissions. A party making submissions should check the information that they reference, to confirm the accuracy. Doing so helps to ensure that the intent of the party making the submissions is clear to WCAT.

[32] I observe that the worker's reference to policy C5-34.11 likely refers to a former policy in chapter 5, in a former RSCM II, which predates January 1, 2024. That policy item #34.11, *Selective/Light Employment*, indicates that the Board supports selective/light employment as an important component of a worker's rehabilitation and recognizes the value of maintaining an injured worker's positive connection to the workplace.

[33] Effective January 1, 2024, the policies changed to incorporate return to work obligations. Nevertheless, the revised policies retain similar, if not the same, intentions by the Board in that they continue to support the value of selective/light employment to retain/foster a worker's connection with the workplace.

[34] However, I find it unnecessary to go into further detail regarding return to work policies, as the worker's submissions are that he was not yet able to return to work, but remained temporarily partially disabled. I will discuss the relevant policy items later in the decision.

[35] Section 201(2) provides that the Board may not pay compensation to a worker under Division 6 of Part 4 of the *Act* – Compensation for Worker Disability − (temporary, permanent, recurrence, non-traumatic hearing loss, disfigurement, and retirement benefit contribution), if the worker ceases to have the disability for which the periodic payment is to be made.

[36] Policy item C96.20, *Duty to Investigate*, does not exist. Nevertheless, I take the worker's point to be that the Board has inquiry powers which, in certain circumstances, it may be appropriate that it deploy. Policy item C12-98.00, *Investigation of Claims*, of the RSCM II does indicate that:

> In the majority of claims the issues are decided by reference to the information received in the worker's application and the employer's and medical reports. Any insufficiency in the information is usually made good by telephone, correspondence, or by informal interview. In a minority of claims, a more formal inquiry, or medical examination, may be necessary.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

[37] Policy item C13-99.00 also does not exist; nor does a policy item entitled "Benefit of the Doubt." The standard of proof "Balance of probabilities, modified by the Benefit of the Doubt.", is not the language used in the Act. Rather, the standard of proof is found in section 339(3) of the Act[5], where it states that:

> If the Board is making a decision respecting the compensation or rehabilitation of a worker and the evidence supporting different findings on an issue is evenly weighted in that case, the Board must resolve that issue in a manner that favours the worker.

[38] Policy item C12-97.10, *Evidence Evenly Weighted*, does indicate that for decisions respecting the compensation or rehabilitation of a worker, the standard of proof under subsection 339(3) of the Act is "at least as likely as not."

[39] The policy further explains that complaints are sometimes received at the Board that a worker has not been given the benefit of the doubt. Usually, these complaints relate to a situation in which the worker has a disability, but the issue is whether it is one arising out of or in the course of the worker's employment. The essence of the complaint is often that if there is some possibility that the injury arose out of the worker's employment, the worker should be given the benefit of the doubt. For the Board to take that view, however, would be inconsistent with the terms of the *Act*. Where it appears from the evidence that two conclusions are possible, but that one is more likely than the other, the Board must decide the matter in accordance with that possibility the is more likely.

[40] Under the terms of section 339(3), the Board is required to decide an issue in a manner that favours the worker if it appears that "the evidence supporting different findings on an issue is evenly weighted in that case". This applies only if there is evidence of roughly equal weight for and against the claim. It does not come into play if the evidence indicates that one possibility is more likely than the other.

[41] The Board, as a quasi-judicial body, must make its decisions according to the evidence or lack of evidence received, not in accordance with speculations unsupported by evidence. Section 339(3) applies when "the evidence supporting different findings on an issue is evenly weighted in that case". However, if the evidence before the Board does not support a finding that a particular condition can result from a worker's employment, there is no doubt on the issue; the Board's only possible decision is to deny the claim. If one speculates as to the cause of a condition of unknown origin, one might attribute it to the person's work or to any other cause, and one speculated cause is no doubt just as tenable as any other. However, the Board can only be concerned with possibilities for which there is evidential support and only when the evidence is evenly weighted does section 339(3) apply.

[5] Similarly, as will be noted later, subsection 303(5) of the Act applies to appeal tribunal decision making.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

Issue(s)

[42] The issues on appeal are:

1) Whether the worker is entitled to wage-loss benefits beyond April 7, 2025. Included in that issue is the question of whether the worker's lumbar back strain resolved or stabilized into a permanent condition as of April 7, 2025.
2) Whether the worker is entitled to a referral to LTDS for assessment of permanent disability benefits for his lumbar back strain.

Jurisdiction

[43] This appeal was filed with WCAT under subsection 288(1) of the Act which provides for the appeal of a final decision by a review officer regarding compensation matters. Section 308 of the Act gives WCAT exclusive jurisdiction to inquire into, hear, and determine all those matters and questions of fact, law, and discretion arising or required to be determined in an appeal.

[44] This is an appeal by way of rehearing, in which WCAT considers the record and also has jurisdiction to consider new evidence and to substitute its own decision for the decision under appeal. WCAT has inquiry power, including the discretion to seek further evidence, but it is not obliged to do so. WCAT may confirm, vary, or cancel the appealed decision or order.

[45] Subject to subsection 303(5) of the Act, the standard of proof if the tribunal is hearing an appeal respecting the compensation of a worker, is at least as likely as not. This provides that if the evidence on an issue regarding the compensation of a worker is evenly weighted, the appeal tribunal must resolve that issue in a manner that favours the worker.

[46] WCAT is not bound by legal precedent per subsection 303(1). WCAT must make its decision on the merits and justice of the case but, in so doing, must apply a policy of the Board's board of directors that is applicable in the case. The applicable policy referenced in this appeal is set out in the Board's RSCM II.

[47] The MRPP at item #7.5 (Appeal Method) provides that WCAT will normally conduct an appeal by written submissions where the issues are largely medical, legal, or policy based, and where neither a significant issue of credibility, nor significant factual issues are in dispute.

[48] While the worker requested written submissions, I nevertheless considered whether it was necessary to convene an oral hearing in this case. I find it is not for the following reasons:

- The worker's claim and medical records provide sufficient information and evidence to determine whether the worker's lumbar back strain resolved or stabilized as permanent as of April 7, 2025 under this claim;
- The appeal turns on the RTW program records and records most proximal to the material period of time;

- The court in *Bhullar v. Workers' Compensation Appeal Tribunal 2019 BCSC 1673* noted that the duty of fairness does not always require an oral hearing in every case where credibility is an issue. The court remarked that credibility spans a range from situations where questions of credibility arise from an implied conclusion, through to situations where there has been a direct statement to condemn the honesty and integrity of the claimant. The present appeal falls short of the extreme; there are no direct statements calling into question the worker's honesty or integrity; and
- In *C.A.S. v. British Columbia (Workers' Compensation Appeal Tribunal), 2024 BCCA 315* the court determined that WCAT was not unfair for using the mode of appeal that the worker chose. In that case, the worker stated she neither knew an oral hearing was possible, nor that her credibility would be in question. In terms of an oral hearing, even though the material and position that the worker was advancing was plainly inconsistent with those advanced at the Review Division level, she chose not to ask for an oral hearing. There was no merit to the suggestion that she and her representative could not have anticipated the credibility and reliability issues. The worker commenced his appeal via the online notice of appeal. The online form states that "WCAT will decide how your appeal will proceed. Tell us what your preference is". The form automatically selects "Verbally (by oral hearing)." Thus, an individual sending this form in must take action to change the selection to written submissions. I conclude that the worker was aware that an oral hearing was possible, and could have requested that appeal path, but did not.

[49] There is no significant issue of credibility; rather at times I weigh the worker's more recent evidence against evidence which is proximal to the time that the Board considered the worker's compensable condition had resolved. This is a question of the reliability of the worker's evidence and recall. I find that I may arrive at conclusions with confidence in this matter, by way of written submissions.

[50] The worker has provided submissions in the appeal. I conclude that an oral hearing is not necessary in this case and allow the worker's request to proceed by way of written submission.

Background

[51] The worker commenced working for the employer in May 2024. He worked two days a week Mondays and Fridays, 8 to 9 hours a day. The worker's job was to drive to parks and pick up garbage.

[52] As previously noted, the Board accepted that the worker sustained a bilateral lumbar region strain on October 28, 2024, while lifting a heavy bag of garbage out of its garbage can, at a city park. The worker stated that he informed his employer. However, his employer indicated they had no knowledge of an incident occurring. The employer noted that the worker declined to submit forms regarding an injury.

[53] I pause to note that it is unclear what form(s) the worker was asked to submit to the employer. However, I observe that the Board form entitled "Worker's Report of Injury or Occupational Disease to Employer", or form 6A, is a prescribed form pursuant to subsection 149(4) of the Act.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

That subsection requires that, where a worker is fit and on request of the employer, they must provide the employer with particulars of the injury or occupational disease on a report prescribed by the Board and supplied to the worker by the employer. In plain language, if a worker is able and an employer requests that they do so, the worker must complete that report.

[54] The employer's payroll records indicate that the worker continued to work, albeit it would appear sporadically. The records indicate the worker worked on November 1 and 15, 2024; given the amount of the worker's pay for each of these days, the worker did not work full days. The worker's employment ended on November 27, 2024, with the employer expressing challenges with communications.

Physician's Records

[55] The worker's claim was initiated at the Board by way of a first report by Dr. Yang, a general practitioner, on November 13, 2024. In his November 13, 2024 report, Dr. Yang noted that he advised the worker to be off work on November 14, 2024[6], then to return to work on light duties. Dr. Yang stated that the worker should avoid lifting heavy objects for a few days (one to six days). Dr. Yang diagnosed a lumbar strain, noting that the worker first experienced pain across his abdominal wall. Later, after that pain had improved, he started noticing pain on his right abdominal side. This latter pain radiated to his right mid-lower back; nor was it worse with twisting or bending over. The worker had full ROM in his lumbar spine, but had "some pain right mid-lower back and lateral abdo[min] wall with lateral flexion." The doctor noted that the worker had normal sensation and strength bilaterally. Dr. Yang recommended the worker rest and use a heating pad. The doctor prescribed a muscle relaxant and recommended that the worker use an over-the-counter topical gel for pain relief as needed.

[56] The worker saw general practitioner, Dr. Browne on December 17, 2024. Dr. Browne diagnosed a rectus abdominal and oblique strain, noting the worker had pain in his lower abdomen and bilateral sides. The worker had a decreased ROM, due to pain. Dr. Browne recommended the worker attend physiotherapy, take turmeric and naproxen in the evening. Dr. Browne estimated that the worker would be able to return to the workplace in 7 to 13 days.

[57] On January 24, 2025, the worker saw general practitioner, Dr. Wilson. The worker advised Dr. Wilson that he had lost his prescription for naproxen; he also requested something for sleep. The doctor recommended the worker commence physiotherapy, provided a prescription for naproxen and a short course of zopiclone. On examination, the worker was non-tender and reported no new back pain. The doctor indicated "No" in terms of whether the worker was medically capable of working full duties, full time; however, he also noted "none" in terms of current limitations. Dr. Wilson noted that the worker was "at work".

[58] The next physician's record from a physician was on June 28, 2025, when the worker saw general practitioner, Dr. Kubanski. The worker reported right-sided lower back pain with a shooting pain to his right flank. The worker indicated that he had sustained an injury in

[6] I observe that the worker would not have been scheduled to work on November 14, 2024. Records indicate that he did return to work on November 15, 2024.

October 2024, and that he had done physiotherapy but that his condition had not ever resolved. The worker stated that his sleep was disturbed due to pain. On exam, Dr. Kubanski noted:

> No midline lumbar back pain, neg[ative] [single leg raise] bilaterally, tender to right paraspinal and into flank. Pain with right lateral flexion and twisting. Pain with back extension plan: paraspinal muscle strain.

[59] Dr. Kubanski noted that for the worker's peace of mind, he would order an ultrasound and x-ray.; the worker was advised to return to physiotherapy. Dr. Kubanski noted that the worker was medically capable of working full time, full duties and that he was "At work".

RTW Program Records

[60] The Board arranged for the worker to commence the RTW program on February 6, 2025. There was a delay in the worker commencing as he was not sure that he was willing to do the program and after the assessment, he "no-showed" for his orientation scheduled for February 10, 2025.

[61] In the worker's initial assessment on February 6, 2025, the RTW program noted that the worker was able to demonstrate all his job demands during that functional testing. However, at that time, they could not assess whether he would be able to conduct work for a full eight-hour shift. The report indicated that:

> He can frequently lift heavy loads floor to waist, occasionally lift heavy loads waist to shoulder, front carry heavy loads up to 60 ft [feet] (according to [National Occupational Classification] standards).
>
> He reports no issues with driving and drove himself to the clinic. He reports no issues with standing and was able to stand throughout the functional assessment with no breaks.
>
> The only critical job demand provoking pain was a mild pain (2/10 Vas pain scale) in his lower back during his lower back when lifting waist to shoulder.
>
> Note, although unilateral carrying was not a job demand, that the client did report mild pain (2/10 Vas pain scale) in lateral oblique area when completing a unilateral carry at 15 lbs. The client declined continuing the 15 lbs due to apprehension to pain.

[62] Subjectively, the worker reported that:

- Currently discomfort in abdomen and obliques - Intermittent.
- Worse after long walks.
- Went to a physiotherapy clinic on Tuesday and has felt better since – he reports the [physiotherapist] prescribed exercises (trunk rotation, Press, dead

> bug, cat/cow, bird dog). He reports he has done them since Tuesday and they were a 'big help'.

[63] The RTW program report indicated that there was "No obvious deformity at linea alba. The iliac crests are level." The worker was able to "demonstrate dead bug and sustained abdominal crunch against gravity without pain indicators." The worker's lumbar active ROM was normal in all directions. The worker was also able to squat fully; his straight leg raise test and femoral nerve stretch were normal. As previously noted, after attending this session the worker did not show up again for the program until later in February.

[64] The next record on March 25, 2025, indicated that the worker was reporting lifting and carrying at a lower load than he had at intake; however, his frequency was consistent. The worker was meeting his job demands. Again, the report observed it could not "comment on his tolerance for performing these tasks over an eight-hour shift." The worker was:

- Able to lift 30 lbs [pounds] floor to waist frequently.
- Able to lift 25 lbs waist to shoulder frequently.
- Able to front carry 30 lbs x 60 ft.

[65] In the last report on April 7, 2025, the RTW program noted that the worker was reluctant to participate in the program; however, over the course of the program the worker's attendance had improved. The report indicated that the worker:

> …completed the Recovery [and] RTW program on April 7, 2025 as Able to Work. A [graduated return-to-work] was not available to [the worker] as he is not job attached. [The worker] did not show up for his final discharge assessment, however he was meeting his critical job demands at intake. He has been encouraged to continue his exercises once discharged from the program to continue to improve his strength and mobility.

[66] The worker demonstrated lifting tasks up to 25 lbs for floor-to-waist and waist-to-shoulder during the program. Subjectively, the worker reported:

- Ongoing right sided discomfort in abdomen and obliques - Intermittent. Diffuse area of pain described – right lower ribs, anterior abdominals and occasionally a 'tremor' in right posterior buttock.
- Symptoms are worse in the mornings.
- Better after he starts moving around.
- Declined to complete testing in program due to several reasons (stress, discomfort in right side).
- Does not want to attempt lift anything over 25 lbs.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

[67] While the worker had tightness with right-side flexion, his active ROM was normal in all directions.

Other Records

[68] As indicated, the worker was reluctant to engage in the RTW program. He later advised the Board that he had experienced some hip pain after conducting a lifting exercise. The worker stated that he "went in with zero to minor pain," but after the session he felt pain/discomfort in his hip. The worker stated that he had attended and paid for his own physiotherapy treatment, and he felt better after that. Later, the Board reimbursed the worker for that treatment.

[69] The photographs of the RTW program workbook confirm that the worker had noted "discomfort mainly on right side".

[70] In a telephone conversation with the Board on April 9, 2025, the worker stated that his abdomen was "so much better. I'm working on obliques now."

Reasons and Findings

[71] I deny the worker's appeal and confirm the Review Division decision. I find that the evidence demonstrates that the worker's bilateral lumbar back strain resolved as of April 7, 2025. Given that, the worker was not entitled to further wage-loss benefits after that date. Further, as the worker's compensable condition resolved, the worker is not entitled to a referral to LTDS for assessment of permanent disability benefits for his bilateral lumbar back strain.

[72] Before providing reasons for my conclusions, I turn to first summarize the law and policy and the worker's submissions applicable to the appeal.

Law and Policy

[73] Section 201(2) of the Act states that "the Board may not make a periodic payment to a worker under this Division if the worker ceases to have the disability for which the periodic payment is to be made."

[74] Policy item C5-34.00, *Duration of Wage-Loss Benefits*, informs that the Board does not pay, or stops paying, wage-loss benefits when the worker ceases to have the temporary disability (i.e., the temporary disability resolves, or stabilizes as a permanent impairment).

[75] The policy further advises that temporary total wage-loss benefits payable under subsection 191(1) will be terminated if the worker's medical condition has resolved to the point where the worker is no longer considered temporarily totally disabled and becomes temporarily partially disabled. In all cases, payment of wage-loss benefits will be terminated under subsections 191(1) and 192(1) where, notwithstanding the existence of a temporary total or temporary partial impairment, the worker is incurring no loss of earnings as a result of the work injury.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

[76] Policy item C12-97.30[7] at item B, *Matter Requiring Medical Evidence*, provides that if the matter is one requiring medical expertise, the decision must be preceded by a consideration of medical evidence (this term includes medical opinion or advice).

Worker's Submissions and Analysis

[77] The worker stated that his four physicians recommended continued therapy, however that therapy was "inconsistent with recovery." The worker stated that after his functional testing on February 6, 2025, he experienced increased pain and had difficulty walking for several days. The RTW program staff lacked professionalism when they stated that the worker should trust his own symptoms/feelings in terms of how much weight was appropriate for him to work with.

[78] The worker stated that during the RTW program, he was having "undue pain and discomfort". He stated that he did not trust the RTW program staff or the Board in terms of any advice regarding the exercises or weights that he was being advised to conduct or lift. The worker believed that he was being conditioned to "believe my discomfort was anything but work-related, undermining my legitimate claim." The worker expressed that the RTW program was insufficient, and he required/requires one-on-one treatment to restore his health.

[79] I am unable to conclude that the worker was having undue pain and discomfort. I am aware that after his February 6, 2025 assessment, the worker felt some pain/discomfort in his hip. The worker indicated that he felt better after a physiotherapy appointment.

[80] I observe that the worker sought medical attention from doctors in November and December 2024, and again in January 2025. The records indicate the worker commenced the RTW program and attended, albeit missing a significant number of earlier appointments.

[81] In his February 16, 2026 submissions to WCAT, the worker stated that he did not attend his final appointment, due to his pain. However, the records immediate to April 2025 are inconsistent with that statement. Rather, the records of that time indicate the worker had to give someone a ride. I observe that this is an uncommon reason for missing an appointment for therapy. Thus, I conclude that the worker must have told the RTW program that this was the reason for his non-attendance. I find the records most immediate to the time that they occurred provide the most reliable evidence.

[82] The worker also submitted that he was hesitant to see another physician, but that in June 2025 he did so. The worker stated that he had a colleague attend that appointment with him.

[83] I pause to note that the worker stated that he could have his colleague provide corroboration, however, he included neither a statement from that individual, nor a name or contact information. I contemplated whether I needed to conduct further investigation to hear from a

[7] Formerly policy item #97.31 of the RSCM II. On December 1, 2025, as a housekeeping measure, certain policies in the RSCM II were renumbered and consolidated without any change in the application of those policies. Where applicable, I reference the new policy number in this decision.

witness in this matter. I conclude I do not because the doctor's written report conclusively demonstrates that the doctor conducted an examination.

[84] The worker stated that Dr. Kubanski did not examine him, but rather told him that such injuries may take a long time to recover; the doctor suggested an x-ray for the worker's "peace of mind". The worker stated that he did not inform the doctor he was working, as he was not employed at the time.

[85] Beyond the timeline of the visit in comparison with the worker's earlier doctor visits, I have not relied on this record for any significant findings in this case. Nevertheless, I do find the worker's statement that the doctor did not examine him entirely inconsistent with Dr. Kubanski's report. The doctor's record documented results from that examination, including a negative straight leg raise test and some tenderness to the right paraspinal into the worker's side.

[86] The worker stated that, contrary to the Review Division's finding, there was no gap in medical care after January 2025. The Review Division did state there was a gap in "the worker seeking medical attention for five months", however the statement followed a summary of the worker's seeking attention from medical doctors. I conclude that what was meant was that the worker did not seek attention from a medical doctor between January 2025 and June 2025. The evidence supports this.

[87] The worker stated that throughout, he has "reported right-sided lumbar, abdominal, and oblique pain, stiffness, and intermittent gait disturbance." I observe that the records do demonstrate that the worker continued to express discomfort in his right side, particularly as stated to the Board, in the worker's right oblique area. The RTW program April 2025 record indicated that the worker had some tightness with right-side flexion; however, his active ROM was normal in all directions.

[88] The evidence does not support that during the months between January and June 2025, the worker continued to experience ongoing stiffness, right-sided lumbar and/or abdominal pain. Rather, the evidence supports that the worker's early symptoms were resolving, and that he had some residual discomfort in the right-side oblique area.

[89] I find it significant that the worker reported to the Board in April 2025 that his abdomen was "so much better." At the time, the worker stated that he was focusing on his obliques. The records do not support ongoing lumbar pain. There are no records that the worker had gait disturbance. Overall, the records most immediate to the worker's workplace incident on October 28, 2024, demonstrate that the worker was recovering even prior to the commencement of his RTW program in February 2025. I find it significant that in February 2025, the worker was meeting all job demands.

[90] The worker stated that it is significant that the RTW program was unable to assess him to determine if he was able to conduct an eight-hour shift. I agree that the initial reports did state this. I observe that the last report stopped reporting that. I find the continuity of these reports indicated improvement in terms of the worker's reported symptoms, including declining pain. In the end report, I find it significant that the worker could conduct the exercises with only one type which brought on some symptoms of discomfort.

[91] The evidence demonstrates that over the course of the RTW program, the worker was reluctant, frequently did not show up, and increasingly indicated that he could not lift the load which he had demonstrated that he was able to in early February 2025. I find the initial RTW program report highly persuasive evidence that the worker's compensable bilateral lumbar region strain was resolving even at that early date.

[92] The worker stated that he had ongoing functional limitations. I am unable to agree. The records do not demonstrate functional limitations. Rather, Dr. Browne's December 2024 record indicated that the worker was pain-limited. However, I find it significant that a month following the workplace incident, in November 2024, the worker had full ROM on examination.

[93] The worker states that his ongoing right-side discomfort demonstrates that the injury he sustained at work has not resolved. Again, I do not agree.

[94] The issue before me is whether the worker's lumbar back strain resolved or stabilized into a permanent condition as of April 7, 2025. The policy provides that a worker is no longer temporarily disabled and entitled to wage-loss benefits, once they are fit to return to work and restore income.

[95] The RTW evidence demonstrates that even in February 2025, the worker was able to conduct his regular job duties. Given that the worker ceased to have the disability for which the periodic payment (wage-loss) was being paid, I find he is not entitled to wage-loss benefits for his compensable bilateral lumbar region strain after April 7, 2025.

[96] I also find the RTW program evidence provides persuasive evidence that the worker's lumbar back strain resolved by April 7, 2025. As stated, the evidence demonstrates that the worker was meeting all his job demands, even at the commencement of the RTW program.

[97] The worker did not show up for his discharge assessment. Nevertheless, I find that the progression of the worker's records, the fact that the worker did not see a physician after January 2025 until June 2025, and that his reports to the Board and RTW program in early April indicated merely discomfort, all demonstrate that the worker's compensable bilateral lumbar region strain resolved by April 7, 2025.

[98] Given that conclusion, the worker is not entitled to a referral to LTDS for assessment of permanent disability benefits for his lumbar back strain.

Conclusion

[99] I deny the worker's appeal and confirm the Review Division decision. I find that the evidence demonstrates that the worker's bilateral lumbar back strain resolved as of April 7, 2025. Given that, the worker was not entitled to further wage-loss benefits after that date. Further, as the worker's compensable condition resolved, the worker is not entitled to a referral to LTDS for assessment of permanent disability benefits for his bilateral lumbar back strain.

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca

[100] As previously noted, the worker requested reimbursement for physiotherapy treatments (health care expenses); these are not hearing expenses which I can order reimbursement for.

[101] No other expenses were requested, and none are apparent; I make no orders for appeal expenses.

Willa Forbes
Vice Chair

Workers' Compensation Appeal Tribunal

150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Tel: (604) 664-7800 | 1-800-663-2782
Fax: (604) 664-7898 | wcat.bc.ca
Email: appeals@wcat.bc.ca