



Local 215
Niagara Health System &
Hotel Dieu Shaver Rehab

Return to Work and Job Accommodations

Equity vs Equality

The concept of equity vs equality is of particular relevance in the return to work process.

Consider this: you need new shoes and the store only carries one style and one size so that everyone gets the same shoe....doesn't make sense does it. You want one that fits, is comfortable, that you can walk in, suits your style.

Equality means everyone gets exactly the same, without regard for individual differences.

Equity means that everyone gets the same quality of outcome: a "shoe" that fits their needs.

Our members who require modified work want a "shoe" that fits. They have the right to accommodated work based on their medically documented needs. This is not preferential treatment. The return to work team is focused on finding a suitable job that fits their needs. This is not only the right thing to do morally, it is required by law.

In finding the job that fits the accommodated employee...the return to work team considers as many options as possible:

- ? Changing work processes/rearranging how the work is done
- ? Introducing equipment to facilitate employee performing the pre-injury job
- ? Are there specific jobs/locations of work within the job classification that allow the worker to perform their job without changing things...ie. Meets the accommodation needs
- ? As a last resort, does the worker need a different job.

Obligations of the Employer, Union & Injured Employee



The duty rests on three sets of shoulders– the employer, the union and the employee.

The primary responsibility rests with the employer, because it has the ultimate control over the the workplace. Once it receives a request, it must initiate the accommodation search.

Accommodation measures must be taken unless it is impossible to do so without undue hardship.

The courts recognize a union has to represent all the workers in the bargaining unit and not just the injured worker.

As unions can be found to be equally liable with employers when it comes to the failure to prevent discrimination, the union must be proactive in negotiating effective and therapeutic, return to work programs

The union must cooperate with the accommodation process and not unreasonably block a viable accommodation option

The employee is expected to participate in the accommodation process and cannot refuse a reasonable accommodation offer.

Collective agreement provisions are to be respected, but they may have to be waived if they unreasonably block a viable accommodation option or if they treat individuals who are protected by human rights legislation differently without a compelling justification.

Programs must protect the rights of injured workers, but, operate to preserve the integrity of the collective agreement.