

2010

WCB facts

Workers Compensation Board of Manitoba

FINES AND PENALTIES

Injured workers and employers have a variety of obligations under *The Workers Compensation Act*. To ensure the compensation system works smoothly and efficiently it's important that workers and employers fulfill these obligations. To respond to cases where an individual or employer fails to comply with their responsibilities, the *Act* includes provisions for both fines and penalties.

What is the difference between a fine and a penalty?

Fines are amounts of money that the court can order a worker or employer to pay for an offence following a successful prosecution.

Penalties do not require court proceedings. The WCB may, but is not required to, levy an administrative penalty for failing to comply with a provision of the *Act*. Penalties can be reviewed by the initial decision maker and then appealed through the Review Office or Assessment Committee and the Appeal Commission.

How much can an employer be fined?

The court can fine an employer as much as \$7,500. For certain offences, the court may also order imprisonment for a term of up to three months.

How much can a worker be fined?

The court can fine a worker as much as \$1,500. For certain offences, the court may also order imprisonment for a term of up to three months.

How is it decided whether a fine or a penalty should apply?

The WCB will decide if the matter should be referred to the court system or if a penalty will be imposed by the WCB. Only situations that are very serious and complex will be referred to the courts.

What are some examples of situations where a penalty may be imposed?

If a worker is unable to complete the shift because of a workplace injury and the claim is accepted by the WCB, the employer must still pay the injured worker for the full day. Employers who fail to pay injured workers for the day of the injury may be penalized.

If an injured worker fails to advise the WCB when he or she returns to work, he or she may be penalized.

Employers who fail to comply with the re-employment obligation may be penalized.

A summary of administrative penalties is attached, including penalty amounts.

Can a penalty be appealed?

Yes, there are two levels of appeal available for employers and workers if they feel they have been penalized unfairly. The first step is to submit, in writing, to the original decision maker, information about the circumstances of the penalty and the reasons they feel the penalty was unfair. If you are not satisfied with their decision, you may submit a request for review to the first level of appeal. If the penalty relates to a WCB claim, please direct the appeal to the Review Office. For appeals relating to WCB premiums or other assessment issues, the appeal should be submitted to the Assessment Committee.

If the employer or worker is not satisfied with the response from the Review Office or Assessment Committee, they can submit their information to the independent Appeal Commission. This is the final level of appeal.

If I have questions about fines and penalties who can I call?

If your questions relate to WCB claims, please call the WCB at 954-4321 or toll-free 1-800-362-3340.

If the fine or penalty relates to WCB premiums or other assessment issues, please call the WCB Assessment Services Department at 954-4505 or toll-free 1-800-362-3340.

Workers Compensation Board of Manitoba Summary of Administrative Penalties

The following penalties were effective April 1, 2006 (with the exception of the penalty related to re-employment obligation, which became effective January 1, 2007). The WCB may, but is not required, to impose the following penalties.

Obligation Under <i>The Workers Compensation Act</i>	Penalty per Occurrence for Failure to Meet Obligation
Employers are required to report a workplace injury within five business days of becoming aware of the injury.	\$225
Employers may not attempt to induce a worker not to file an injury claim with the WCB.	\$450
Employers may not take or threaten to take discriminatory action against a worker for reporting or attempting to report an employer for suppressing WCB claims.	\$450
If a worker is unable to complete the shift because of a workplace injury and if the claim is accepted by the WCB, the employer must still pay the injured worker for the full day.	\$225
Employers are required to advise the WCB when injured workers return to work following an absence due to a workplace injury.	\$225 or 10% of the overpayment of wage loss benefits to the injured worker, whichever is greater.
Workers are required to advise the WCB when they return to work following an absence due to a workplace injury.	\$225 or 10% of the overpayment of wage loss benefits to the injured worker, whichever is greater.

Obligation Under <i>The Workers Compensation Act</i>	Penalty per Occurrence for Failure to Meet Obligation
Employers may not deduct any amount from the wages of their workers to cover the cost of their WCB premiums.	\$225
Employers and workers are obligated to follow the provisions of all WCB regulations.	\$225
Employers are obligated to provide information to the WCB from time to time on workers' earnings estimates, records of wages, nature of work statements, etc.	5% or 10% of their WCB assessment to a maximum of \$5,000 depending on the infraction.
Employers are obligated to provide accurate earnings information to the WCB for the purpose of assessment and from time to time, the data provided may be audited by the WCB.	15% of the difference in WCB assessment to a maximum of \$5,000 where the audit determines the employer under-reported their workers' earnings.
<p>If a principal sub-contracts work to another firm or individual, it is the principal's obligation to ensure that the sub-contracted firm or individual has provided all information required by the WCB and paid all premiums owing to the WCB.</p> <p>Note: The WCB's online Clearance System is an easy way to check if sub-contractors have filed the required information and paid premiums to the WCB. To access the Clearance System go to www.wcb.mb.ca and click on Clearance System under Online Services.</p>	\$225

Obligation Under <i>The Workers Compensation Act</i>	Penalty per Occurrence for Failure to Meet Obligation
<p>Effective January 1, 2007, employers who have 25 or more full-time or regular part-time workers are required to re-employ injured workers who were in their employ for a least 12 continuous months prior to their injuries.</p>	<p><i>First failure:</i> Greater of \$5,000 or worker's net average earnings with that employer for the three months before the injury.</p> <p><i>Second failure within five years:</i> Greater of \$10,000 or worker's net average earnings with that employer for the six months before the injury.</p> <p><i>Third and any subsequent failure within five years:</i> Worker's net average earnings with that employer for the year before the injury.</p> <p>A penalty amount cannot exceed the worker's net average earnings with that employer for the year before the injury.</p>