

Seasonal Layoff After Injury Was Reason for Loss of Earnings, Not Injury



An injured worker was laid off from work as part of a normal seasonal layoff while he was still being treated for his injury. The workers' comp board said his temporary earnings replacement benefits (TERB) should cease because of the seasonal layoff, which meant his earnings loss was no longer caused by his injury. The worker appealed. He said he didn't normally work during the seasonal layoff and usually applied for regular EI benefits. The court agreed that the loss of earnings was not due to injury following the layoff and thus he wasn't entitled to TERB. If the worker could have shown he usually worked during the seasonal layoff, the court noted it might have considered the injury to still be a cause of losses but that was not the case here [2014-137-AD (Re), [2014] CanLII 36443 (NS WCAT), July 9, 2014].