

Client Services Policy Manual

POLICY NUMBER: EN-22
SUBJECT: Merits and Justice
CHAPTER: Entitlement

Policy Statement

Subsection 19(4) of the Workplace Health, Safety and Compensation Act (the Act) states:

“The decisions of the commission shall be upon the real merits and justice of the case and it is not bound to follow strict legal precedent.”

General

WorkplaceNL is responsible for administering and implementing the Act. If there are specific directions within the Act that are relevant to the facts and circumstances of the case, decision-makers are legally bound to follow them with no exceptions. These mandatory directions are usually indicated in the Act by the use of the word “shall”.

Role of the Policy

WorkplaceNL develops policies when the Act permits a number of possible interpretations or when the Act is silent or ambiguous.

After gathering all the facts pertaining to each case, the decision-maker interprets the information, determines if there are any relevant provisions of the Act or policies, and weighs all of the evidence before making a decision.

To identify a relevant policy, a decision-maker must first consider whether the case falls within the effective date of the policy.

The decision-maker then determines if the facts of the case fall within the framework established by the policy.

Within each policy, WorkplaceNL creates a framework that directs the way decision-makers should act when certain facts and circumstances come before them. If such situations arise, the relevant policy must be followed unless there are exceptional circumstances as described below.

Merits and Justice

By applying relevant legislative and policy provisions to similar situations, decision-makers ensure that:

- similar cases are adjudicated in a similar manner;
- each participant in the system is treated fairly; and
- the decision-making process is consistent and reliable.

Every decision made by WorkplaceNL is based on the merits and justice of the case, which means decision-makers take into

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account:

- all facts and circumstances relating to the case;
- the relevant provision(s) of the Act; and
- the relevant WorkplaceNL policy.

Exception to Relevant Policy

There may be cases where the application of a relevant policy would lead to an absurd or unfair result that WorkplaceNL did not intend. Therefore, a decision-maker may depart from a policy if it can be shown that the case has exceptional circumstances that justify doing so. A departure from policy without exceptional circumstances may result in decisions that are arbitrary, unfair and inconsistent.

When considering the merits and justice of a case, decision-makers identify the exceptional circumstances and explain in the decision why the relevant policy does not apply.

No Relevant Policy

If a decision-maker finds that the facts of the case are not covered by existing policy, the case is decided on its particular facts in accordance with the general and/or relevant provisions of the Act.

Reference: Workplace Health, Safety and Compensation Act (the Act), Section 19(4)

Amendment History

Original Effective Date 2018 12 13

Next Review Date 2019 12 01