



**I AM BEING REFUSED CSST BENEFITS BECAUSE I
ALLEGEDLY HAVE A “PRE-EXISTING CONDITION”...
DO I HAVE A RECOURSE?**

Brigitte had worked for the same employer for several years as a maintenance employee. She had never had health problems and even led a very active lifestyle. One morning, her employer asked her to clean premises that were particularly dirty after a party.

She and a co-worker began to clean the room. Brigitte noticed that there was dirt encrusted under a radiator and she had to bend down and crouch for nearly 30 minutes in order to clean it, a position she virtually never had to be in in the course of her normal work. Suddenly, she felt a sharp pain in her knees, a pain so strong that she had to ask for her co-worker's help in order to reach the infirmary.

Over the following days, Brigitte underwent many tests and was diagnosed with a condition affecting the tendons in her knees. Radiology tests revealed that she was suffering from calcification of the tendons, a condition that usually results from age or heredity. Brigitte, who did not know whether she should contact the CSST, discussed it with her employer who told her that it would be useless, because her injury was a personal condition not caused by her work. Should she follow this advice?

The answer is simple: no.

The fact that the basis of a condition is personal does not automatically make it inadmissible for purposes of filing a claim with the CSST. Even if Brigitte's knees were already fragile before her work accident, she had never had any problems with these joints and had always been able to function normally, at work and in her personal life. This is referred to as an “asymptomatic” condition, which means that the condition is there, but without the appearance of any symptoms or pain.

In such a situation, even if the work was not the cause of calcification in Brigitte's knees, it is the unusual effort she had to make on the day of her accident that made her condition “symptomatic.” Based on the strong majority of court decisions, it would therefore be possible for her to have her illness recognized as an employment injury, which would allow her to receive benefits from the CSST.

Text prepared by
M^e Bruno Boucher,
lawyer at the
Montreal Sud-Ouest
legal aid office

Contact Us

Commission des
services juridiques
Communications
Department
2 Complexe Desjardins
East Tower
Suite 1404
P.O. Box 123
Succursale Desjardins
Montreal, Quebec
H5B 1B3

Telephone: 514-873-3562
Fax: 514-873-7046

www.csj.qc.ca

* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.



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However, if it turned out that Brigitte had previously consulted a physician for knee problems or had previously complained about such pain in the course of her work, the situation would be very different. In such a case, this would be a purely personal condition, and it would be very difficult to establish any connection whatsoever with her work.

Nevertheless, one should never assume that an application for compensation will be refused by a State agency (CSST, IVAC, SAAQ, etc.). When the need arises, file your application as soon as possible and, if you have any doubts, consult your lawyer!

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M^e Bruno Boucher,
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