



# Climate Change: Human Rights in Nova Scotia

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# When is a “condition” a disability?

## Key Facts

**IMP:** Grievor claimed sex addiction was a disability.

**Beals:** Claimant had a note providing “she is not fit for work”.

**Securitas:** Evidence required to establish nicotine addiction.

## Lessons Learned

**1. Challenge the Medical Evidence – consider hiring your own expert.**

**2. Document Concerns**

**3. Above All – Be Fair**

# How do you accommodate an opioid addiction?

## Key Facts

**Humber River:** Nurse dismissed for theft/use of narcotics at work.

**Sunnyside Home:** Nurse terminated for misappropriating narcotics and falsifying medical records.

**Royal Victoria:** Nurse terminated for theft of narcotics.

## Lessons Learned

- 1. Consider the effect of the addiction to comply with the rule.**
- 2. This means considering accommodation of individuals who commit theft (or other serious misconduct).**
- 3. Determine whether there is any reasonable chance of rehabilitation.**

# Can an employer ever establish undue hardship?

## Key Facts

CPC: Claimant was disabled from his letter carrier position due to a back injury – CPC's search not sufficient.

Dofasco: Claimant had significant medical limitations but could he still work?

Wakeham: Claimant made brief, intermittent and unpredictable appearances at work.

## Lessons Learned

1. It is an uphill battle – there is no such thing as too much evidence.

2. Courts and tribunals want employees engaged in meaningful employment.

3. Search high and low for alternate work and document every step.

# Issues when contracting out disability management?

## Key Facts

HRM: Offset of LTD benefits.

Surrey Place Centre: STD adjudicator erred in assessment of claim.

Moose Jaw Refinery: Insurer seeking too much medical information; such information was not reasonably necessary.

## Lessons Learned

1. Consider the pros and cons.

2. You are responsible for the overall outcome of the process.

3. Maintain oversight of the process and each case.

# When to conduct a workplace investigation?

## Key Facts

**Frolov:** Employer failed to investigate a complaint.

**Doyle:** Deficient investigations can result in liability.

## Lessons Learned

**1. Requirement to investigate allegations of harassment and discrimination.**

**2. Investigations must follow policies, identify key issues, consider evidence, and issue a final report.**



Questions?



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If you have specific questions related to these materials or their application to you, you are encouraged to consult a member of our Firm to discuss your needs for specific legal advice relating to the particular circumstances of your situation.

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