

Nevada
Workers' Compensation Law Blog
NEWS & UPDATES ON WORKERS' COMPENSATION LAWS & HELPFUL INFORMATION ON THE CLAIMS PROCESS

Very Little Job Security After a Work Accident

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Q: What happens if my work injury prevents me from being able to do my old job?

A: If your treating doctor releases you with permanent work restrictions that are not compatible with the physical requirements of your job, one of three things is likely to happen:

- 1) your employer may offer you a permanent light duty position , or
- 2) if your employer doesn't offer permanent light duty, you will be eligible for vocational rehabilitation benefits and/or services, or
- 3) you can try to get your permanent work restrictions lifted so that you can stay in your job.

Q: Doesn't my employer have to provide me with a permanent light duty job?

A: No, your employer is free to say that it does not want to offer a permanent modified position. While the Americans with Disabilities Act, if applicable to your employer, may be helpful in securing an accommodation and keeping you employed, Nevada workers' compensation law does not provide job security to injured workers.

Q: What if I am released full duty and my employer has given my job to someone else or simply won't rehire me?

A: Workers' comp law provides that benefits are not payable if the injured worker is released full duty and the pre-accident job is no longer available. An employer is not required to hold an injured worker's job position open indefinitely. If applicable, the Family Medical Leave Act, may require an employer to hold the job open for up to 12 weeks. Many injured workers need to file for unemployment benefits when they are able to work. No recourse can be taken against an employer for not rehiring the injured worker unless it can be proven that the employer is retaliating against the injured worker for filing a workers' comp claim.

Q: What is the best way to keep my job after an injury?

A: Because an employer is not obligated to offer permanent light duty, the safest way to secure your job is to have your treating doctor release you full duty, without work restrictions. (You can still be rated for impairment and receive a PPD award even if you have a full duty work release.) Of course, you need to be able to do your old job if you intend to convince your treating doctor that it is safe and reasonable to send you back to work full duty. If you are unsure, then ask your doctor to give you a trial of 2 weeks or 30 days of full duty, with a follow-up appointment. That way, if you really cannot work full duty, you will get permanent work restrictions at the follow-up visit, and be entitled to vocational rehabilitation. Keep in mind that if you do have a full duty work release, your employer has a right to expect full duty work performance from you. You want to be a valuable employee, and don't want to give your employer any excuses to look for reasons to terminate your employment.

Q: What else can I do to keep my job even if I have restrictions?

A: From the moment your doctor and you think that you may have permanent work restrictions, you can start strategic planning on how to keep your job. Devise a plan for showing your employer how you can remain a valuable employee. Refuse to be a victim, and focus on what you are still qualified to do. Put yourself in your employer's shoes, and think creatively about how to best use your skills. Keep in contact with supervisors and human relations reps so that you are aware of positions that may be opening within the company. Ask whether you would be qualified for other positions with a short course of retraining.

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