

North Carolina

PERSONAL INJURY LAW

N E W S L E T T E R

By Brent Adams



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Personal Injury Law Newsletter

**What if my employer tries to
force me to go back to work?**

The issue of returning to work is one of the most common areas of dispute in workers' compensation cases. The employer and to even a greater extent, the employer's workers' compensation insurance carrier wants to get the injured worker back to work as quickly as possible so they can terminate workers' compensation benefits.

The injured worker on the other hand does not want to go back to work before he or she is physically able to do so.

This gives rise to a serious conflict between the employer and workers' compensation attorney.

The issue comes to a head when the employer gives notice to the injured worker to "report for work Monday morning at 7:00 a.m., we have a job which is suitable for you". At this point, the injured worker is at a critical crossroads in his or her claim.

If the injured worker does not go back to work the insurance company's lawyers will file a motion to terminate the worker's benefits for refusal to return to work at a suitable job.

If the worker is not represented by an experienced workers' compensation lawyer at this point, it is critical that the worker get a lawyer quickly. At this point in the game, it is too important for a worker to try and handle the case alone.

The determinate issue almost always will be whether, from a medical point of view, the injured worker is physically able to do the job the employer has available. Other factors that the industrial commission will take into account and determine whether the job offered by the employer is "suitable" is the education training and job experience of the worker.

If the industrial commission determines that the employer has offered the injured worker "suitable employment", then the employee must take that job. If the employer refuses suitable employment, North Carolina laws allows the employer to terminate benefits. On the other hand, if the industrial commission finds that a job is not suitable then workers' compensation benefits must continue to be paid and the injured worker does not have to take that job.

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