

How and when to appeal

In this sixth of the preceding scenarios, the deadlines are short:

- the CSST has to produce its written decision within 20 days of your request for an investigation, if you feel that you are not reasonably capable of performing the duties your employer assigned;
- this decision comes into effect immediately; you can request a review within 10 days of being notified of the decision;
- the decision resulting from a request for review may be appealed before the Commission des lésions professionnelles (CLP) within 10 days of being notified of the decision.

In the five other scenarios the procedure is the same, and the deadlines are longer:

- a review of a CSST decision may be requested within 30 days of being notified of it;
- the decision resulting from a request for review may be appealed before the CLP within 45 days of being notified of it.

Note : A CSST decision may be reconsidered up on request. We suggest that in such cases a request for review be submitted at the same time: this is a way of ensuring that all of your rights are protected.



Receiving compensation

If you are a pregnant or breast-feeding worker who satisfies all the necessary conditions and you requested re-assignment but were not re-assigned, you can receive an income replacement indemnity as set out in the Act respecting industrial accidents and occupational diseases:

- the employer pays your salary for the first five workdays at the usual rate;
- for the following 14 calendar days you receive 90% of your net salary;
- after this, you receive 90% of your net income.

If you are pregnant you are eligible for indemnities:

- until the date of your delivery;
- or
- until you are re-assigned.

If you are breast-feeding you are eligible for indemnities:

- until your child is weaned;
- or
- until you are re-assigned.



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Please do consult the official laws for legal information.



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The protective
re-assignment
of pregnant
Or breast-feeding



The protective re-assignment of pregnant or breast-feeding worker

The Act respecting occupational health and safety gives rights to pregnant or breast-feeding worker whose working conditions may be dangerous for her or for her unborn or breast-feeding children.

If you are pregnant or breast-feeding and feel that your working conditions may be dangerous for you or for your unborn or breast-feeding child, you can turn to the act's provisions on protective re-assignment for pregnant or breast-feeding worker.

Using the provisions

If you are pregnant or breast-feeding worker you must fulfil certain conditions in order to have the right to protective re-assignment:

- you must be a worker in the sense of the law;
- you must be pregnant and work in conditions that present a risk of infectious disease or physical danger to yourself or to your unborn child;
- you must be breast-feeding and work in conditions that present a danger to your breast-feeding child;
- you must provide a medical certificate signed by the attending physician in consultation with the physician from the office of the public health Director of the regional Board that attests to the risks or dangers that your work presents;
- you must be capable of performing other duties – that is, to be able to continue working in another capacity.

You should inform your union of your situation in order to receive the exact information and assistance you need.

What is the protective re-assignment for the pregnant or breast-feeding worker?

If you satisfy the conditions listed above all you have to do in order to benefit from this right is request to be re-assigned to other duties, ones that do not present the risks or dangers that the attending physician listed on your medical certificate.

If your employer does not re-assign you, you can stop working and receive compensation from the CSST.

If you make use of this right, you maintain all of the benefits of the position you held before you stopped working or were reassigned to other duties.

Once the period of re-assignment has been completed, or you are ready to start work again, the employer must return you to your regular position.

Who decides about protective re-assignment?

The CSST decides on the right to preventive re-assignment and the right to receive an income replacement indemnity (IRI), once it has received the medical certificate required by law. The decision is delivered in writing states the grounds that it is based and may be appealed.

Presenting the employer with a medical certificate that attests to the presence of dangers or risks constitutes a request for re-assignment to other duties.

After the request for re-assignment: possible scenarios

1. The employer re-assigns you to other duties that do not present the same dangers or risks and that you are reasonably capable of performing. You take up the new duties.

2. The employer does not re-assign you, so you leave work and are eligible to receive the income replacement indemnity available in this situation.

3. The employer re-assigns you to other duties that present the same dangers. You may stop working and apply to receive compensation from the CSST.

The CSST investigates the situation and delivers a written and grounded decision based on the opinion of the attending physician and on its evaluation of the duties to which you were re-assigned.

The CSST's decision may be appealed.

4. The employer re-assigns you to duties that present other dangers. You must begin the process again : meet with your doctor, explain the new dangers

and obtain another medical certificate.

The CSST delivers its decision in writing and states the grounds that it is based on. This decision may be appealed.

5. You or your employer appeals the right to preventive re-assignment, the right to receive income replacement indemnity, the amount of IRI or the length of the benefit period.

The CSST delivers its written and grounded decision which may be appealed.

6. The employer re-assigns you to duties that you are not reasonably capable of performing, because of your physical ability, your aptitudes or the amount of training you received to perform them.

You can stop working and ask for an investigation by the health and safety committee or the safety representative or, if there is none, by the CSST.

The CSST has 20 days in which to deliver a written decision that states the grounds that it is based on. It comes into effect immediately.

