

QUESTIONS RELATED TO CCAA FOR CEP MEMBERS ON DISABILITY BENEFITS

As you may be aware, Catalyst has entered CCAA creditor protection pursuant to the *Company Creditors Arrangement Act*. Court hearings were held on January 31st, February 3rd, February 6th and February 7th related to details of the Court Order.

As someone who may have an ongoing disability claim, you likely have questions about how the CCAA process affects your claim. In this memo, we have attempted to answer some of the questions you may have. If you have further questions not answered by this memo, or if you have more specific questions about how CCAA may affect your particular case, we encourage you to contact your Local Union for advice.

BACKGROUND REGARDING THE CCAA PROCESS

The Court Order is very detailed. Full particulars of all aspects of the Court Order and the various materials filed with the Court and prepared in this matter can be found at:

<http://www.pwc.com/ca/en/car/catalyst-paper-corporation/index.jhtml>

We encourage you to read the materials and become aware of both the process and the Court Order.

The Court Order provides conditions under which the Company can continue operating and includes terms such as:

- (a) A Monitor is appointed to oversee matters and report to the Court.
- (b) A DIP Lender (“Debtor in Possession”) funds the Company and receives high priority for repayment and substantial fees. In this case, that lender is J. P Morgan from the U.S.
- (c) There is a stay of all legal actions against the Company while they try and work out their affairs. Unfortunately, that includes all arbitrations, etc., although it likely does not include the Labour Board. The idea is that the Company must concentrate on its new plan to present to Creditors, and dealing with legal matters would distract it from that. The only exception is if someone convinces the Court to “lift” the stay to allow something to proceed.

QUESTIONS ABOUT THE IMPACT OF CCAA ON DISABILITY CLAIMS

- Q. I have an outstanding appeal related to Weekly Indemnity, Long Term Disability, or WorkSafeBC claims that have been denied. What is the status of my appeal? Can we continue or is it deemed to fall under the CCAA process where the claim is suspended? Can I proceed to Small Claims Court for a settlement from the carrier(s) for Weekly Indemnity or Long Term Disability Benefits?**
- A. The answer to that question depends on whether your appeal is against the Company or the insurance company.**

Internal appeals for Weekly Indemnity, Long Term Disability claims that are being made against a third-party insurance carrier (i.e. not the Company), such as Manulife or BC Life, are not suspended by the CCAA process. They can continue. Furthermore, we recommend that you go through any available internal appeals process available to you.

If you have exhausted the carrier's appeal process and the insurance company continues to deny your benefits, then yes, you can try to sue the insurance company in Small Claims Court. You do not need to be represented by a lawyer at Small Claims Court. Information about the Small Claims process may be found at: http://www.ag.gov.bc.ca/courts/small_claims/index.htm. Please note, however, there are **limitation periods** which require you to start your Small Claims action within a certain period of time. Pursuing your claim in Small Claims is your responsibility and is not something that the Union is in a position to help you with. Therefore, **if you are considering this option, we recommend that you seek immediate legal advice.**

WorkSafeBC claims are not affected by CCAA and may continue.

However, claims for Weekly Indemnity or Long Term Disability benefits that are proceeding under the collective agreement's Dispute Resolution Process ("DRP") are in a different category. The Company may take the position that they are suspended by the CCAA stay of proceedings. If that is the approach the Company decides to take, the Union may decide to challenge that in Court. Furthermore, if the Court decides that the DRP process is in fact suspended, it may still be possible, depending on your specific circumstances, for the Union to apply to the Court to have the stay of proceedings "lifted" to allow your DRP case to continue. However, each case is unique, and the Court may or may not grant the Union's request, depending on the circumstances.

Q. I am a member of Local 630 or 1123 (Elk Falls Division). Because my disability benefits claim is under appeal, I am still entitled to severance payments due to the closure of the mill. Can I decide to take my severance instead of continuing to pursue my benefits appeal? Under the CCAA process, what requirement is there for the Employer to continue to make those severance monies available to employees in my position?

A. The answer will depend on what position the Company takes and what the Court decides to do.

If the Company decides to voluntarily pay you your severance claim, it may be possible to obtain the full amount of your severance; however, there are no guarantees that the Company will cooperate.

There is a chance that the Company might try to argue that employees who are owed severance become creditors in the CCAA process, in which case the payments of severance claims would depend on what money becomes available for distribution to creditors. If that is the approach the Company decides to take, the Union may decide to challenge that in Court. If that is the case, the issue will be for the Court to decide.

Q. Instead of pursuing my disability appeal, I am considering retirement. I know that employees who retire after age 55 are entitled to receive a bridging benefit from age 60 – 65. Under the CCAA process, would I be eligible to receive the bridging benefit at age 60 or later? If the Employer ceases to pay the bridging benefits, what recourse would I have?

Under CCAA, certain obligations which arise or which are earned prior to the Company filing for CCAA protection are considered to be “pre-filing debts” which the Company can decide to either continue to pay or to discontinue. The law is not clear as to whether bridging benefits for employees whose decision to take early retirement comes after the Company files for CCAA would be considered “pre-filing” debts. Therefore, there is a risk that the Company might discontinue bridging benefits. If that happens, the Union may decide to challenge that decision in Court. However, there is a risk that the Court may agree with the Company and allow them to discontinue those payments. Therefore, you need to be aware of that risk when deciding whether to retire and to claim bridging benefits.

If bridging benefits are in fact discontinued, the Union may eventually file a claim against the Directors and Officers of the Company for that money, and we may be able to argue that some priority is created by statute for these benefits. However, there are no guarantees that the Union would succeed in its claim, and there is still a risk that in the meantime, the Company will discontinue payment of bridging benefits.