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|  Yukon Workers' Compensation Health and Safety Board | Part: | Entitlement | | |
| | Board Approval: | <i>Original Signed by Chair</i> | Effective Date: | July 1, 2008 |
| | Number: | EN-05 | Last Revised: | |
| | Board Order: | 2008 | Review Date: | |

COMPENSATION FOR LOSS OF PERSONAL PROPERTY

GENERAL INFORMATION

When a worker is directly involved in a work-related accident, his or her personal property may be damaged or destroyed. This policy addresses compensation for such losses, which may occur whether or not the worker was injured.

PURPOSE

This policy provides direction to decision-makers of the Yukon Workers' Compensation Health and Safety Board (YWCHSB) on the payment of compensation to a worker whose personal property has been damaged or destroyed because of a work-related accident in which the worker was directly involved.

DEFINITIONS

- 1. Accident:** an unanticipated and undesired event, or series of events, that happens to a person or persons and causes or has the potential to cause injury to one or more workers.
- 2. Board of Directors:** the individuals appointed by the Commissioner in Executive Council to collectively provide governance to the YWCHSB.
- 3. Personal clothing:** the personal clothing, including footwear, owned by a worker and that the workers in a workplace or industry normally wear in the course of employment. It does not include clothing or footwear supplied by the employer.
- 4. Personal property:** for the purpose of this policy, items owned by a worker and worn or used by the worker, usually on or in the worker's body, for the purpose of protecting the worker from workplace hazards, improving or maintaining the worker's functional abilities or minimizing the risk of further injury. It does not include items such as jewellery, watches or wallets; or items supplied by the employer.

5. Work-related: arising out of or in the course of employment, as explained in YWCHSB policy, "Arising Out of and In the Course of Employment."

PREVENTION

To prevent work-related accidents and injury, employers must ensure that workplaces, procedures and equipment are safe and appropriate and that workers are thoroughly trained to perform their work safely. Workers must take all necessary safety precautions; comply with health and safety instructions and promptly report hazards and injuries to supervisors.

POLICY STATEMENT

When a worker is involved in a work-related accident and has personal property damaged, lost or destroyed as a direct result of his or her work-related injury from the accident, the YWCHSB may pay compensation to the worker for loss of the personal property up to a maximum amount fixed by an Order of the Board of Directors.

The YWCHSB may pay this compensation even if the worker has not been injured as a result of the accident. However, in these cases, the accident must have had the potential to injure the worker and did not cause injury but for the presence of the personal property.

Example:

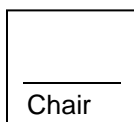
A rock from a passing piece of equipment hits a worker in the eyeglasses, shattering the glasses but causing no eye injury, because the eyeglasses absorbed the impact. The worker is entitled to compensation for the eyeglasses.

The worker must have been directly involved in the accident and must file a worker's report with the YWCHSB. Both the worker and employer must verify that the accident took place.

The YWCHSB will pay compensation for damage incurred from work-related accidents under this policy, but not for damage from the normal wear and tear of workplace activity.

Examples:

A mechanic's work-clothing is worn out at the knees from doing work on the ground. The damage would not be compensable because there was no work-related accident.



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Worker A cuts himself in a butcher shop and stains his work clothes to the point they are destroyed. Worker B standing near him gets blood on his clothes as well, ruining them. Worker A is entitled to compensation to replace his clothing; Worker B is not.

1. Amount Of Compensation

a) Personal Property (other than personal clothing)

Personal property includes, but is not limited to:

- (i) Protective clothing and footwear
- (ii) Adaptive devices
- (iii) Mobility aids
- (iv) Hearing aids
- (v) Eyewear
- (vi) Dental aids
- (vii) Pacemakers

The YWCHSB shall pay the worker for the damage or destruction of personal property the lesser of:

- (i) the cost of repair to a like condition, or
- (ii) the cost of replacement to a like quality.

The maximum is the lesser of the cost of repairing or replacing the personal property, as explained by an Order of the Board of Directors.

In the case of eyewear, the worker must produce receipts or the damaged eyewear itself to the YWCHSB, in order to verify the original cost of the damaged or destroyed eyewear. In cases where this is not possible, the YWCHSB shall pay the worker for the damage or destruction of personal eyewear to a maximum set by an Order of the Board of Directors.

b) Personal Clothing

The YWCHSB shall pay the worker for the loss of personal clothing to the lesser of:

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- (i) the cost of repair to a like condition to a maximum amount set by an Order of the Board of Directors, or
- (ii) the cost of replacement to a like quality to a maximum amount set by an Order of the Board of Directors.

This maximum applies to all of the worker's personal clothing affected by the work-related accident, rather than to each specific article of clothing affected by the accident.

Example:

A worker is involved in a serious electrical incident while working outside at -40. He is burned and destroys his insulated work pants, boots and heavy duty winter coat. They cost a total of one thousand, six hundred dollars (\$1,600.00) to replace. For the purpose of the example, the maximum amount set by an Order of the Board of Directors is one thousand, five hundred dollars (\$1,500.00). He is entitled to compensation of one thousand, five hundred dollars (\$1,500.00) as a total. He would not be able to apply to the maximum to his work pants, boots and coat individually.

ROLES AND RESPONSIBILITIES

Employers and workers are responsible for reporting to the YWCHSB work-related injuries in accordance with the *Workers' Compensation Act* S.Y. 2008 (the "Act") and work-related accidents in accordance with the *Occupational Health and Safety Act* R.S.Y. 2002. Employers and workers are also responsible for providing the YWCHSB with information and documentation on accidents, injuries and employment in a timely fashion, in accordance with the *Act*.

Workers are responsible for providing receipts and other documentation or items (such as samples of the damaged personal property) the YWCHSB may be required to support workers' claims for loss of personal property in relation to work-related accidents.

YWCHSB decision-makers are responsible for determining eligible losses of personal property for which a worker is entitled to compensation, for calculating the loss of personal property benefits and for documenting the calculations on the worker's claim file.

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APPLICATION

This policy applies to the Board of Directors, President/CEO and staff of the YWCHSB; service providers, employers and workers covered by the *Act*.

EXCEPTIONAL CIRCUMSTANCES

In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in unfair or unintended result, the YWCHSB will decide the case in accordance with YWCHSB policy, "Merits and Justice of the Case." Such a decision will be considered for that specific case only and will not be precedent setting.

APPEALS

Decisions made by the YWCHSB under this policy can be appealed directly in writing to the hearing officer of the YWCHSB in accordance with subsection 53(1) of the *Act*. Notice of the appeal must be filed within 24 months of the date of the decision by the YWCHSB, in accordance with section 52 of the *Act*.

ACT REFERENCES

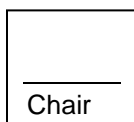
Sections 21, 52 and 53
Occupational Health and Safety Act, R.S.Y. 2002

POLICY REFERENCES

EN-01, "Arising Out of and In the Course of Employment"
EN-02, "Merits and Justice of the Case"

HISTORY

CL-39, "Compensation for Loss of Personal Property", effective January 1, 2007, revoked July 1, 2008.


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