



## Claims Involving Closed Circuit Video Surveillance Video Footage



**PREDICT**



**DETER**



**DETECT**

More and more workplaces are being equipped with Closed Circuit Video Surveillance Systems (often referred to as CCTV) every year. Generally, these systems are installed as a security measure; however, as video quality improves and as systems become more ubiquitous, employers are increasingly relying on video captured by these systems to dispute workers' compensation claims. Employers have successfully used CCTV footage to argue that an alleged accident never occurred or that a worker "staged" an accident. Footage has also been used to document that a worker was clearly injured (i.e.: walking with a severe limp) when they arrived at the beginning of a work shift. In the event that you find yourself in the position where you believe that you have CCTV surveillance footage that you wish to present to your workers' compensation provider as evidence to be considered in a claim, there are a number of questions that should be asked and considerations to be made as follows:

**1. Has the worker specified the precise date, time and location of the accident that they are claiming has caused their injury?**

If CCTV surveillance footage is going to be effectively used to dispute a claim, it is important to have the worker commit to the date, time and place of the injury before video information is compiled and presented to the workers' compensation provider. By having the worker commit to a single, clear version of alleged accident, you will be able to limit the amount of footage required to either confirm or disprove the accident. As a general rule, if the worker is committed to a single time and location it is a good idea to include footage from 1 hour before until 1 hour after the alleged events. Clearly, delays in injury reporting by the worker can prove very detrimental to this effort. If the injury is reported "on time" (meaning before the worker leaves the workplace at the end of the work shift when

the injury occurred) you will be far more likely to gather impactful CCTV surveillance video footage, particularly if you plan to assert that an alleged accident did not occur. If a week passes between the alleged injury and it being reported, this may prove difficult, if not impossible due to the worker's inability to recall details, their unwillingness to commit to a specific time and/or place of occurrence or, in some cases due to technical limitations inherent in the CCTV system itself.

**2. Does the surveillance footage clearly identify the worker or can you state with certainty that the images are of the worker?**

Before your workers' compensation provider can consider the relevance of any CCTV surveillance footage that you may submit, they must be satisfied that the footage in question is actual footage of the worker. You must be prepared to state that the footage



## Claims Involving Closed Circuit Video Surveillance Video Footage



**PREDICT**



**DETER**



**DETECT**

provided for consideration is footage of the worker. Depending on the quality of the image capture, the angle of the camera, the distances and lighting involved and many other factors, it may be quite easy or more difficult to identify the worker. If you plan to submit CCTV surveillance footage to your workers' compensation provider to dispute a claim you should be prepared to explain how you identified the worker in the footage and you should be certain that the worker would identify himself or herself if shown the same footage.

### 3. How should the footage be provided to your workers' compensation provider?

Before submitting any CCTV surveillance footage to your workers' compensation provider you should contact the Claims Adjudicator or Case Manager responsible for the claim in question to inform them that you have the footage and that you wish for it to be considered. While doing so you should ask whether you should submit the footage directly to them or whether it should be sent to the Special Investigations Unit. Be sure to follow any instructions when forwarding the information.

### 4. Is the surveillance footage in a format that will be easily viewable by your workers' compensation provider?

Be sure when submitting CCTV surveillance footage that it has been formatted such that it will be easily viewable. It is generally not a good idea to send footage that requires the download of specialized video format players as this can cause significant delays as your workers' compensation provider's IT department will (in all likelihood) be required to vet, test and install any software before footage can be reviewed.

**5. Lastly, do not send CCTV surveillance footage without supporting correspondence that outlines in detail your concerns** (as raised by the footage), the relevant sections of the footage, how the worker can be identified in the footage and how you interpret the meaning of the footage within the context of the claim and what decision you wish your workers' compensation provider to make in the case. Although it has been said that a picture is worth a thousand words, when it comes to CCTV surveillance footage, it is far better to include those thousand words (or so) to ensure that your workers' compensation provider will give full consideration to the matter when rendering their entitlement decision.