

Epilepsy and Employment

■ Can I be fired because of my epilepsy?

Both federal and provincial human rights codes prevent employers from firing someone because they have a diagnosis of epilepsy. However, employers sometimes use other reasons to mask a discriminatory termination.

■ What are my rights if I am fired because of a seizure?

If you think you've lost your job because of your epilepsy, whether or not your employer admits to it, you have the right to use the Human Rights complaint process. Contact your community epilepsy agency for guidance or the Office of the Ontario Human Rights Commission.

■ What kind of accommodations should my employer make?

Some people with epilepsy don't require any accommodations at work, while others may require accommodations to help them avoid triggers, ensure they can remain safe if they have a seizure while on the job, or help them adapt to seizure or medication side effects. Workplace accommodations for epilepsy are inexpensive, easy to make, and only require a little creativity and flexibility. Here is a list of examples of reasonable accommodations for people with epilepsy:

- Job restructuring—redistributing nonessential, marginal job functions, such as driving, to other employees
- In a case of photosensitive epilepsy, replacing flickering light in an employee's work area and/or adjusting the display intensity on their computer if these trigger seizures.

- Installing a safety shield around a piece of machinery.
- Installing a piece of carpet to cover a concrete floor in the employee's work area.
- Putting work instructions in writing (rather than just giving them orally) if memory difficulties/deficits are a side effect of the seizure disorder or anti-seizure medication.
- Scheduling consistent work shifts if seizure activity is made worse by inconsistent sleep patterns.
- Allowing an employee who experiences fatigue as a side effect of medication the place and opportunity to take frequent rest breaks.
- Allowing an employee to take time off to recover after a seizure.

For help with accommodation, contact your community epilepsy agency at 1-866-EPILEPSY (1-866-374-5377). There are extensive resources for employers about accommodations at www.epilepsyatwork.com. You may find these resources helpful, too.

■ How can I reassure a reluctant employer?

Employers are concerned about issues of safety, reliability, and liability if an employee or job applicant has epilepsy. But these concerns are not valid. In fact, studies have shown that the performance, cooperation, productivity, and stability of employees with epilepsy are equal to or greater than that of employees without epilepsy. Absenteeism rates are lower too because workers with epilepsy practice good self-care and strive to avoid illness.

Epilepsy and Employment *continued*

Accident rates for employees with epilepsy are lower too: 0.6% vs. 1.92% for other employees. Some studies have even revealed that employees with epilepsy work more attentively and productively than others, as they often try harder to prove themselves at work. As for an employer’s liability, people with epilepsy are covered by the Workers Compensation Board, whose rates are not tied to employee disabilities. It is not “expensive” to have people with epilepsy on staff.

Your employer can visit www.epilepsyatwork.com for more information about epilepsy in the workplace.

■ What if I experience other workplace harassment or discrimination?

You can file a complaint with the Ontario Human Rights Commission or Employment Standards Branch of the provincial government.

■ What should I do if a seizure occurs in the presence of customers or clients?

If you have a seizure in the workplace

- Ask your co-workers what happened.
- Address their concerns in a matter-of-fact way.
- If someone helped you during your seizure, thank the person.
- If they provided first aid that was unnecessary or inappropriate, explain what they should do the next time you have a seizure.

■ Can a community epilepsy agency help with work issues?

A community epilepsy agency can alleviate your employer’s fears, and help them find solutions to accommodate your epilepsy. We can also provide training to help employers and colleagues learn how to respond to seizures in the workplace.

■ What about jobs that require a driver's license?

Where driving is concerned, it is important to distinguish between having epilepsy and having seizures. A person with fully-controlled epilepsy who is taking anti-seizure medication(s) and is seizure-free for 6 months is legally entitled to drive in Ontario. A person who is fully compliant with medical treatment but experiencing seizures is not. For further details, consult our Epilepsy and Driving in Ontario *Spark* sheet.

An employer cannot discriminate against a person with epilepsy whose license has been medically suspended, unless driving is an essential component of the job. The burden of proof lies with the employer to prove that a driver’s license is necessary, rather than just desirable. When a medical license suspension occurs for a current employee, the employer must make every reasonable effort to restructure the job or rearrange staff so that the worker retains his or her job at the same pay. Again, “undue hardship” as defined under the Ontario Human Rights Code is the only legal reason for not doing so.

Commercial driving is treated somewhat differently. Reinstatement of this category of license requires completion of a medical form and a report from a neurologist. In addition, the seizure-free period is five years, in accordance with Canadian Medical Association guidelines.

■ What jobs can I not do because of my epilepsy?

People with epilepsy can work in almost any occupation. Restrictions are constantly being modified as medications improve the control of seizures. It is a good idea to find out from your doctor if there are specific restrictions on the work you want to do.

Sometimes, safety concerns may limit the opportunities for people with epilepsy, depending on how well seizures are controlled. Safety may be of primary concern in public transportation, trades

Epilepsy and Employment *continued*

involving dangerous machinery, police work, the military, or firefighting.

■ Can an employer ask about epilepsy when I apply for a job?

It is illegal for an employer to ask medical questions on an application form under the Ontario Human Rights Code. Should such a question appear on an application anyway (likely due to employer ignorance), you can refuse to answer it.

The employer may, however, ask you questions during the interview to determine your ability to perform the particular job. A sample appropriate question would be “Do you have any medical condition which would interfere with your ability to perform this job?” It is illegal to ask, “Do you have any medical problems?” In other words, a medical question in the job interview must be tied to ability to do the job, not just to gather information.

A work-related medical examination may only be requested after a written offer of employment.

**Adapted from Epilepsy and Employment (Canadian Epilepsy Alliance/Alliance canadienne de l’Epilepsie) and Epilepsy and Employment (Epilepsy Toronto).*

Version Date: July 2015

■ Can an employer refuse to hire me because I have epilepsy?

Only if it would be dangerous for you to work with certain machinery necessary to perform the essential functions of the job, and this risk cannot be sufficiently reduced through a reasonable accommodation.

■ Once I have a job, what can I do to keep it?

Often landing a job is easier than keeping it for someone with epilepsy. Job retention strategies include:

- Open and timely communication is the key with management and sometimes the union and co-workers.
- Know your rights.
- Know yourself.
- Find an advocate or two within the company.
- Nip any problems in the bud.
- Don’t lose your cool.
- When someone is misinformed about epilepsy, address it with education instead of sarcasm or confrontation.