

CSST Assessments and Third-Party Fault

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Many employers are rightly concerned about the significant amounts they are required to pay to the Commission de la santé et de la sécurité du travail in respect of employment injuries sustained by their employees.

The general rule underlying the financing system of the regime is that the cost of benefits paid following an industrial accident sustained by an employee is imputed to his employer's account, irrespective of whether the employer is at fault. This no-fault regime motivates the employer to ensure that his work environment is safe in order to limit the cost of CSST assessments issued to him. However, even a safe work environment offers no guarantee to the employer that industrial accidents will not happen.

It was in this context that on March 28, 2008, a panel of three commissioners issued a decision intended to clarify the conditions for the application of section 326 of the *Act respecting industrial accidents and occupational diseases* (the "Act") regarding transfers of imputation in the context of industrial accidents caused by the fault of a third person.

In their decision in this case, which involved the Ministère des Transports and the Commission de la santé et de la sécurité du travail, the commissioners proposed a structured approach that allows for a more organized understanding of the conditions for the application of section 326 of the Act.