

NL Dialogue on Return to Work Session #2, December 7 2022
Summary Report

This summary report on Session #2 includes an overview of the presentation, link to the presentation recordings, a list of presenters and topics, a rough transcript of recorded presentations and a high level summary of issues explored in the Q and A and discussion section of the session.

The Session Focus

Presenters in this session discussed key findings from research done in other parts of Canada on Return to Work and Labour Market Re-entry challenges associated with particular types of work situations including some that are becoming more common in the Newfoundland and Labrador context. These work situations include employment in small businesses and precarious employment; employment that is associated with complex/extended mobility for work (i.e. inter-provincial construction workers and maritime workers (seafaring, etc.); and particular vulnerabilities associated with employment of Temporary Foreign Workers in agriculture and other sectors.

Please Note: the recording of the presentations in Session #2 can be found on the SafetyNet Youtube channel at the following link: <https://www.mun.ca/safetynet/our-research/nl-dialogue-on-rtw/session-2/>

Presenters

Professor Ellen MacEachen, co-lead, Policy and Practice and Return to Work and Director, School of Public Health and Health Systems, University of Waterloo

Presentation title: *Non-standard work and RTW: a focus on small businesses and precarious employment*

Dr. Robert Macpherson, Research Associate, Partnership for Work, Health and Safety, University of British Columbia

Presentation title: *How does where you live and work affect your return to work?*

Professor Janet McLaughlin and Ph.D. candidate Stephanie Mayell, International Migration Research Centre, Wilfred Laurier University.

Presentation Title: *Return to Work for Migrant Agricultural Workers: Challenges, Barriers, and Opportunities for Reform*

Dr. Desai Shan, Maritime Health and Safety Legal Scholar, Community Health and Humanities, Memorial University.

Presentation title: *Return to Work Following Workplace Injuries: Legal Challenges for Seafarers*

Presentation Summaries

Ellen MacEachen

Ellen MacEachen presented findings from her research on non-standard work and return to work with a focus on small businesses and precarious employment. She opened with some basics related to the underlying assumptions in return to work policy. One assumption is that ESRTW is good for all parties – good for employers, for workers and for insurers, and that employers will provide accommodated work until the worker is able to resume their job. But this assumes the business is large enough to have different types of work available and that business managers know how to accommodate that illness/injury. RTW policy also assumes that workers have the time/knowledge to interact with WCB including the paperwork around injury, modified work, etc., and that employers will avoid costs related to injury by providing accommodated work in a timely fashion. These assumptions are appropriate mostly for standard employment where you are dealing with large businesses and where employers value employees and want to retain them; but standard employment is increasingly rare. Most businesses, for example, are small businesses and of those small businesses, over half have fewer than 4 employees. Also precarious employment is on the rise and by that Ellen means gig workers, those without contracts, who work part-time, on minimum wages, often without benefits. Precarious employment is on the rise globally and recognized as a public health issue.

In this presentation, Ellen focused on non-standard work and RTW policy, reporting on findings from two qualitative studies of RTW and nonstandard work in Ontario including experiences in small businesses and among the precariously employed. She did the small business and RTW study with Joan Eakin some years ago but the findings still apply. They interviewed workers and employers in Ontario in small businesses (less than 50 employees). They found owners were already over-burdened, so when they had to manage RTW forms, modifying work, etc., that added a lot of extra work compared to large companies who have specialists to deal with this. RTW is a relatively rare experience for small employers who therefore lack experience and expertise with RTW.

They also found modified jobs were hard for small owners to find. They did not have a lot of positions and they talked about having to give workers meaningless work like ‘holding a broom’.

In small businesses, everyone knows everyone and RTW often disrupted established relationships. One of the issues was the injured worker might get ‘easier work,’ forcing someone else into a ‘harder’ job. And owners would have to get involved with health management by calling workers.

Small business operators managed RTW as a business problem. This was reflected in the use of ‘meaningless’ work or placing workers with charity organizations until they had recovered to avoid lost time costs and some talked about routinely contesting claims or giving workers unattractive jobs, with the idea they might choose to leave.

Managing RTW also drew employers into what they called ‘playing the doctor.’ They had to figure out what is early return to work and what is safe return to work. When there were delays in medical appointments, etc. it could extend the time they had to hold the job for the injured worker. Also in small

businesses, confidentiality is hard to maintain because everyone knows everyone and some started to question their employee's situation even though they were not health experts.

So all in all, Ellen indicated that they found RTW in small businesses was introducing an element of 'moral rupture' in that RTW and injury management interfered with established relationships and employers sometimes felt a loss of trust in the employee and workers did not always appreciate the accommodated work. Relationships in small businesses often 'feel like a family' and related trust could be ruptured; lack of trust was especially a problem for short-term workers.

The second study was published last year and it focuses on precariously employed workers in Ontario. The problem Ellen and others were addressing with that study was, given evidence RTW policies fit awkwardly in nonstandard workplaces, how do precariously employed workers access workers compensation and RTW and how do employers deal with this? Employers and workers in temp agencies, limited term contracts, minimum part-time, etc. were all included in this qualitative research study.

The first challenge was about implementation of these policies in the context of extreme power differences between employers and workers. Ellen's team saw employers and workers at two extremes- at one end there were employers who were strategically hiring workers on short contracts, etc. and they were well-informed and knew what they were doing. At the other end, there were workers who were inexperienced with navigating compensation and RTW.

Employers talked about how they actively managed their relationship with workers compensation. They indicated they were usually up to date and on good terms with workers compensation. They also talked about screening out workers who might file a workers compensation claim. In a job interview, for example, they would start out by asking about how they could accommodate any health issues, etc., and then move on to physical limitations and would not hire anyone who mentioned anything about a prior injury.

Precariously employed workers were at a disadvantage in that they had poor knowledge of their rights. She presented an example of a worker who was discouraged from filing a claim because he was told there was no record of his employment in a particular place. Other workers did not know about workers' compensation at the time so they did not put in a claim. One worker said she was injured and then was told by an employer she was no longer a good fit for the job. Even workers who knew their rights had difficulty. For example, a worker in a retail store filed a claim and told her employer and the employer had to file. Although she managed to access her rights, she found she was getting worse shifts and she finally quit three months later.

The second challenge they observed was RTW policy implementation in the context of unsteady employment. The key issue here is when workers change jobs regularly or they have two part-time jobs, the attribution of the injury to a particular job can be challenged. She gave an example of someone in the entertainment sector where the employer contested her claim by arguing she was injured on a second job. A seasonal worker was asked by workers' compensation to find witnesses for her injury but this was hard to do given people are moving around. She was working in a forest doing tree-planting and her only co-worker was from South America and had moved back there and she did not know how to contact him. Her claim was rejected.

The third challenge with RTW policy relates to employment insecurity. Even when these workers know their rights, they are not always confident acting on their rights because of fear of job loss. Workers talked about self-censoring. She gave an example of a woman who was injured and whose doctor suggested she file a claim and who was sorry she had not filed one because of ongoing health problems. She did not file because she was afraid she would lose her job, get worse shifts, etc.

In conclusion, across these studies, workers and employers are describing how it is not easy to implement RTW policy in non-standard employment contexts. It is thus important to update RTW policies so that they protect all workers and not just workers in standard employment.

Robert MacPherson

Robert is studying RTW among mobile workers and he is focusing mainly on interprovincial workers who are travelling across provincial boundaries for work. He started by explaining who would fit the broader definition of mobile workers. Work-related mobility crosses a spectrum from working at home to those who engage in extended mobility for work across interprovincial, national, and even international boundaries. Seasonal agricultural workers and seafarers are examples of mobile workers but he will not focus on them.

Why a focus on injury prevention and RTW among mobile workers? There is a growth in this kind of work; these workers can help fill gaps in labour supplies (oil fields in Alberta) and they are often coming from areas where there is limited employment so they can bring money home. However, in terms of work and health these workers can pose challenges for both injury prevention and RTW. They tend to work in high-risk industries and occupations and they tend to have more challenges with RTW due perhaps to lack of awareness of compensation and health systems where they are working and because they are far from family when working. Also, they are hard to identify in the existing datasets like workers compensation datasets.

In terms of the scale of mobile work- based on Census data and other sources of information, Lippel and Neis estimate that 16-17% of the employed labour force in Canada are engaged in some kind of extended mobility ranging from daily commuting, through temporary work permits, transportation, etc. Focusing on NL statistics from linked tax data showing what proportion of the labour force are gaining income from other provinces, this varies but ranges up to about 11%. They make up an important part of the workforce and earn about 75% of their taxable earnings outside of the province. So just from an economic perspective, these are important workers and have been the focus of some of the studies on injury and return to work.

Research Robert, Chris and others have been doing extends work that Nicola Cherry was doing on injured Atlantic Canadian workers employed in Alberta. Findings from the studies (Nicola's and ours) indicate there are generally lower compensation claim rates from out of province relative to within province workers and this is consistent across provinces. Cherry complemented workers compensation data with surveys and found only about a third of workers who were injured in Alberta from Atlantic Canada actually filed a claim. There may be a higher injury risk for these workers but if so, this is not making it into the system, i.e. the compensation data are only telling us part of the story.

From their own work, they know that when looking at different types of compensation claims there tends to be smaller differences between internal versus interprovincial workers for more severe injuries.

Claims that don't require wage loss benefits or just require medical aid are less likely to be reported. This makes sense given the hassle factor – why file a claim for something they can recover from on your own? Something they were able to do was to look at the origin of the workers, they found that workers from Alberta who were injured in BC tended to have less difference in their claims than those from further away.

In terms of RTW, their research has focused on work disability duration measured typically by when they came off work-loss benefits, i.e. the time between injury and end of benefits - compensation disability days. Their findings are consistent with others. In both their study and Cherry's, out of province workers tended to have longer disability duration than within province studies and in both studies there was matching done and even with that out of province workers had longer disability duration. In their research, they were dealing with six provinces so they found that the differences were largest in resource-related sectors: construction, warehousing and transportation, etc. There was less difference in some sectors in part because patterns there are driven by Quebec-Ontario cross-border workers in the Ottawa area. These people are working in government-related jobs and travelling a short distance so you would not see much difference there. They also found a bigger difference in disability duration for those working in Western Canada and this was related to distance travelled and type of work.

Cherry's research found that leaving the province for treatment led to longer disability duration. They did interviews with 60 participants but the importance of returning to family if injured, the costs of maintaining a second home after injury and other factors influenced where they did their treatment.

This research implies that these interprovincially mobile workers may pose a challenge for workers' compensation boards. They may also pose a challenge for employers in terms of trying to identify who is responsible for the recovery of these workers and trying to have work accommodations for these workers who may be travelling long distances, working in camps and may have family elsewhere. RTW poses a challenge for these workers and their families. They know these workers have lower claim rates but these researchers don't really know if they have less injuries because that data is based on surveys and is not necessarily representative. And these researchers know they are less likely to come off of disability benefits but that is only one type of measure of return to work – it is an approximate measure and he is working on addressing this now.

Robert now has more data to work with and is comparing not just interprovincial workers but also workers who travel great distances within provinces. He will also be doing work on fishing, aquaculture and seafaring workers as part of a larger study on maritime workers.

Janet McLaughlin and Stephanie Mayell

They presented preliminary findings from their ongoing research on RTW challenges experienced by migrant agricultural workers employed through temporary foreign worker programs in Ontario. In 2021, more than 61,000 migrant agricultural workers were employed in Canada with approximately 27,000 of these in Ontario. Canadian employers can hire migrant workers under four substreams of the Temporary Foreign Workers program. The largest of these is the Seasonal Agricultural Worker Program but increasing numbers are being hired under other streams of the TFW programs. Policies are different across these programs. There are also migrant agricultural workers who are undocumented workers but their focus in this presentation was on the temporary foreign worker program workers.

The conditions that characterize Canada's migrant workers' programs in agriculture create significant challenges for migrant workers' health and the protection of their rights.

- a) Migrant workers' temporary status and work permits are tied to a single employer who can fire and deport them without any formal grievance process.
- b) Workers are often unable to refuse unsafe work and are reluctant to report situations of abuse for fear of deportation or not being asked back the following year by their employer.
- c) These workers experience barriers to accessing health care in Ontario and often have to rely on employers for transportation.
- d) Injured and sick workers are often repatriated before receiving health care or compensation.
- e) As a result, all migrant workers in Canada are structurally vulnerable to poor health outcomes.

While living and working in Canada these workers are exposed to various physical and psychosocial risks. As a result they are vulnerable to a variety of health issues related to occupational and environmental health, as well as those related to sexual and reproductive health, chronic and infectious diseases (including COVID-19), as well as mental health challenges. These issues are linked to the intersecting social determinants of health facing this population including precarious employment and working conditions, low income or social status, lack of social support and connectedness, substandard living environments and housing, limited access to health care, health literacy challenges and gender issues.

In 2019, there were 117 migrant agricultural workers employed through these contracts in NL. That is a relatively small number but it is still important to consider this population because the provincial government is seeking to attract more migrant workers across sectors and the existing health care system is inaccessible to these workers. This is because migrant workers must have a fulltime permanent job with a contract of at least one year to qualify for access to the province's medical care plan.

Their current research in Ontario is seeking to accomplish two main objectives: 1. they are investigating the RTW barriers and facilitators for migrant workers across sectors and streams of the TFW programs and, 2. they are proposing policy solutions to ensure optimal RTW outcomes for migrant agricultural workers who are injured or made ill in Ontario. Their methods include qualitative interviews with injured workers and an analysis of workers compensation policies.

WSIB administers the provincial compensation system. Once an injured migrant agricultural worker in Ontario is covered by workers' compensation they are obliged to accept offers of modified work. Employers are economically motivated to offer workers modified work that allows workers to continue working theoretically without harming their health. In Ontario both the employer and the worker have a legal obligation to cooperate in the early RTW process. Physicians are not called upon to approve the proposed work, rather injured workers in Ontario are generally required to visit a WSIB assessment centre.

Many migrant workers in Ontario are repatriated prematurely, rather than accommodated in RTW. Prior research with Seasonal Agricultural Worker Program (SAWP) workers in Ontario found the intersection of workers' temporary migration and employment status provide unique challenges for RTW for this population, especially since many injured and sick workers are repatriated prior to recovery and therefore they do not benefit from re-employment, re-training or re-integration into the labour market.

Their research seeks to determine the scope and scale of these problems for migrant agricultural workers in Ontario and to identify effective policy solutions to improve RTW outcomes.

If workers' injuries or illnesses persist they are normally excluded from future SAWP contracts as they are not able to pass the annual medical examination or perform the intensive manual labour required in most agricultural positions. Employers may also be reluctant to rehire previously injured workers.

Although their results are not yet finalized and interviews are ongoing they were able to offer some preliminary findings. During interviews many migrant workers reported:

- a) general confusion about the WSIB and its processes;
- b) the need for support throughout the claims process especially from a legal professional;
- c) challenges communicating with case managers due to language and cultural differences;
- d) lack of communication from and poor treatment by case managers such as apathy and disrespectful tone or language.
- e) All interviewees reporting ongoing pain and disability and many noted poor representation from their sending country representatives.

They provide quotes to illustrate these findings (see presentation).

To conclude they recommended the following:

1. Injured migrant agricultural workers should have greater RTW supports and such supports should be accessible and provided in the preferred language of the worker.
2. Workers unable to return to their previous job should be given opportunities to retrain and re-integrate into the Canadian labour market.
3. Injured migrant workers should be able to stay in Canada to access all necessary health care until they are deemed medically able to return.
4. Injured migrant workers who return home unable to work should be provided with fair loss of earnings benefits that recognize the realities of their local labour markets.
5. No injured worker should return home before health care is pre-arranged.
6. Workers should be able to access their choice of health care providers back home with WSIB and the Ministry of Labour in Ontario working to ensure that all providers understand the WSIB system and no workers are charged out of pocket.
7. The WSIB should review and consider adopting recommendations to improving equitable access to benefits as outlined in previous research. Although some positive changes have happened, many recommendations are outstanding..
8. Looking at NL, Janet and Stephanie feel migrant workers should have access to health care across Canada requiring some change in NL.

Desai Shan

The presentation had four parts: 1. Background; 2. empirical findings from a study related to challenges experienced by employers with RTW including the marine medical certificate; 3. legal issues related to the marine medical certificate links to overlap between federal and provincial jurisdictions on seafarers health and RTW; and, 4. a summary of the findings.

Desai studies seafarers because it is widely known that the workplace injury risk at sea is higher than average injury rates. Also, seafarers are mobile workers and this may influence their RTW after injury. There are an estimated 30,000 seafarers in Canada. Only Canadian citizens and permanent residents can work on vessels doing trade between Canadian ports, but this is currently being challenged in an effort to open up the labour market to international labour supply agreements including, for example, with the Philippines. Inter-provincial commuting is common among seafarers. Based on their most recent research with Canadian seafarers using a survey focused on mental health issues, they found more than 35% of participating Canadian seafarers live in Atlantic Canada but only 17% work in Atlantic Canada; in BC, 15% of participating seafarers live in BC but 30% of seafarers work in BC.

Seafarers are federally regulated but workers compensation is covered by provincial workers' compensation boards and this creates challenges around RTW.

So, why focus on RTW among seafarers? According to Canada's Human Rights Act, 1985, all individuals should be protected from discrimination related to disability. Employers have the duty to accommodate workers; to identify and change any rules and practices that may have a discriminatory impact. There is also a maritime labour shortage and a strong need to retain workers in the supply chain. In many coastal provinces including BC, Ontario, NS, NL, employers are responsible or strongly recommended to accommodate ESRTW after work injury. So RTW can reduce unemployment risk caused by workplace injuries and reduce workers compensation premiums. This is supposed to be mutually beneficial for employers and employees.

But is RTW a smooth process in the maritime sector? Not necessarily. Their interviewees reported conflicts between federal and provincial requirements for RTW. One chief engineer said the company has a right to request a review of the health certificate issued by Transport Canada (TC). If they, the employee, do not do it, then there are liabilities and fines for the violation for bringing the seafarers back to sea with physical limitations. But WSIB may decide the injured seafarer is employable. He noted WSIB tried to send a seafarer back to work with a broken leg.

The second issue reported by the employer is that accommodation of the injured or sick seafarer is considered to be impossible, especially during an emergency situation. An employer talks about trying to educate a doctor around the work conditions in seafaring. In the end, the seafarer was accommodated by giving him office work until he recovered. Sometimes managers give seafarers the safety manual to read at home, which means they can be understood to be back to work.

The third issue Desai identified was something she learned from a maritime human resource manager in New Brunswick and relates to whether it is possible for a seafarer to arrange RTW with limitations. The HR manager talked about doctors who say the seafarer can return, but with light duties. The HR Manager claimed that light duties are not available on a ship and the person won't be certified by Transport Canada.

These interviews with employer representatives all talk about the marine medical certificate. The latter is neither a certificate of general health nor certification of the absence of illness, rather it is a certification that the seafarer is expected to be able to meet the minimal requirements to perform their routine and emergency duties at sea safely and effectively during the period of validity of the medical certificate. Thus, the conditions will need to be known to the medical professional issuing the certificate. They will have to establish whether the seafarer meets the minimum standards for their post and

whether any duties will need to be modified to allow this. If Transport Canada, provides a restriction on the marine medical certificate such as no watch-keeping allowed, that can lead to essentially a denial of future employment for the seafarer. In some cases where this happened it has been appealed by the union and won based on a change to the certificate to say no watchkeeping alone.

It is widely acknowledged by the maritime employers and Transport Canada that the maritime medical certificate is crucial but workers compensation boards may not agree with this. Their legal review has indicated (based on an appeals tribunal of BC decision) that WorkSafeBC does not deem that a marine maritime medical certificate is necessary for RTW. The tribunal held that once a worker was able to RTW his wage loss benefits would end, even if he was not able to get a marine medical certificate. Seafarers can therefore be caught between federal and provincial jurisdictions. It is a catch-22. They are deemed fit for work by the workers' compensation board so they lose their wage benefits but they cannot get their marine medical certificate so they cannot return to seafaring.

Summary of the Q and A and Discussion

In the discussion, Ellen was asked to talk briefly about the research they had done on labour market re-entry in Ontario. She commented that workers go on retraining programs when they are not able to return back to their jobs. One example of this would be a construction worker who can no longer lift who is retrained, and then after they retrain is expected to find work doing, for example, some computer work. Whether they find work or not, they are deemed to be able to work and their benefits are reduced by the amount they would be earning if they had found work in their new field. This is one challenge they identified through their research on labour market re-entry in Ontario.

A second challenge they identified was a situation where workers were on strong painkillers that affected their ability to learn but this was not taken into account in training, despite its importance for the workers.

The third challenge they identified was linked to a decision by WSIB to privatize retraining services on the basis that privatization would result in efficiencies and would ensure more experienced trainers. What they found in their research was that a market in service provision developed that included an incentive to show high success rates in retraining including by helping workers pass. Workers saw themselves as not learning very much, but their concerns were not taken seriously. Their research supported these concerns and showed that many workers were not receiving good training. The LMR program also tends to assume that once workers are retrained they find work but this is often not the case. Since they did this research, WSIB has brought some of the retraining services back inside and has shifted emphasis from 'church basement' type providers to colleges and other similar institutions.

Desai was asked if the work seafarers are doing is considered to be 'safety-sensitive' – a term that is used with other types of work such as police and public safety work and that influences RTW in these other sectors. She agreed that there are multiple types of work including police work, airline work, etc. that are considered 'safety critical' in that their work involves an element of public safety and this affects their ability to return to work. In the case of marine medical certificates- these need to be renewed every two years to ensure seafarers still meet the requirements.

One participant observed that in NL injured seasonal construction workers are brought back or accommodated for the rest of the season but then they are laid off and are not brought back the following season so the accommodation is short-lived and they lose access to both employment and to workers' compensation.

Several presenters responded to this observation. Janet highlighted similarities to the situation of temporary foreign workers who are injured, laid off, have to leave the country and then are not brought back, although their situation is more complicated because they are out of the country. Ellen noted that in Ontario, if a worker has been employed for a minimum of one year by an employer and is then injured, the employer has an obligation to bring them back for up to two years. The situation is different with nonstandard employment. In the case of injured temp agency workers, for example, they might be compensated until the end of their current contract but then not assigned any future work through the agency.

Someone commented that in NL they knew of situations where, if the worker had been employed for multiple seasons with an employer, they would need to bring them back. That obligation would end, however, with the end of the project.

Desai's presentation prompted the observation that in NL seafaring, the situation is even more complicated than she outlined. For instance, in some cases companies will request the right to reduce crew sizes onboard a vessel and this might make it impossible to return due to the increased responsibilities. She agreed that employer requests to waive other requirements such as minimum manning requirements and requirements limiting hours of work can also mediate RTW in seafaring. The underlying issue is the responsibility of Transport Canada to prevent discrimination based on disability at work and lack of consistency between TC and the compensation board policies.

Someone commented on Janet's mention of clinics in Ontario where migrant workers could go for medical advice and the absence of such clinics in NL for those not eligible for MCP. Janet noted that the clinics in Ontario they were talking about are not technically medical clinics, they are clinics set up by WSIB for the purpose of assessing return to work duties. They may or may not have doctors in them. Ontario migrant agricultural workers need to rely on their employer to access any kind of health care and their employer often accompanies them, leaving little opportunity for workers to talk freely about modified duties and whether or not they think they can do them. Oftentimes, because of the precarity of their employment migrant workers might try modified duties and could exacerbate their injuries by pushing themselves given their fear of deportation.

In NL, as across the Maritimes there is increased reliance on TFWs coming in through the SAWP and low-skilled streams of the TFW program. Stephanie noted that in Nova Scotia the province has had to go to a lot of effort to increase supports for these workers and to increase its awareness of the number of these workers in the province. It makes sense to assume the trend towards increased reliance on international migrant workers will increase in Atlantic Canada. This means thinking hard about how they will access their rights and healthcare in NL. She thinks health care needs to be available to all workers on their arrival and should be accessible independently, outside of or unmediated by employers.

Janet observed that they have been doing research on issues related to seasonal migrant workers in Ontario for a couple of decades now and, based on that research, they have identified some really innovative solutions that have been adopted by different health clinics. This is important because access to health care and workers' compensation is only half the solution. The other half relates to quality and appropriateness of care. So NL doesn't need to reinvent the wheel. There are neat systems in place elsewhere that could be transferred to and adapted for NL. That said, she thinks it is important for everyone to advocate with the federal government for changes that will ensure these workers are not so precariously employed so they will be free to exercise their rights.

In NL, some TFWs in seafood processing were able to join a union and were covered by the full agreement. This is different from Ontario where seasonal agricultural workers do not have the right to engage in collective bargaining.

There are issues in NL including the lack of health care in some of the remote areas where they are working and limits on their rights. Lack of access to health care is also an issue in rural parts of Ontario where many of these workers are concentrated. In NL, some TFWs move between workplaces and provinces. This is also the case elsewhere and in other sectors. When they move between provinces, they have to get to know a whole new healthcare and workers' compensation system.

The issue of emphasizing recovery at work as the best way to address RTW was raised in relation to some of the research findings on lack of access to RTW and on modified duties that hurt discussed in the session. Ellen noted she published a paper called "hurt versus harm" that sought to address the idea that the longer workers are away from work, the harder it is to return to work. Based on her review of related research she found that studies that say this are mostly cross sectional studies and so they can't demonstrate causal relationships. The emphasis on reducing time away from work grew partly out of research on back pain that found that whereas they used to emphasize rest, it was better to be active. This kind of policy was developed with back pain and the standard worker in standard workplaces in mind. It saves money for employers and the compensation boards but it is not necessarily always good for healing/the worker including for other kinds of injuries. Early RTW requires good jobs, great employers, a positive social environment and many other things that do not exist in all workplaces.

How common are temp agency workers in NL and where do they work? Governments are often the biggest employers of temp agency workers. Ellen found in her research in Ontario that employers like hiring temp agency workers for jobs that are difficult or injury prone because if an injury happens then the claim will belong to the temp agency, not the employer at the worksite. One reason for this is that if you are bidding for contracts as an employer you want to have a clean workers' compensation slate. These are some of the challenges in Ontario.

Additional resources

During the session, a number of participants asked about accessing related publications and reports. After the session, the presenters provided the following lists of publications and other resources that might be useful. Some of these will be open access. Others might be available only from the researcher due to copyright limitations.

Ellen MacEachen:

1. MacEachen, E., Kosny, A., Ferrier, S., Lippel, K., Neilson, C., Franche, R.L., Pugliese, D. The ideal of consumer choice: challenges with implementation in an Ontario injured worker vocational retraining program. *Disability and Rehabilitation*, 2013, 35(25), 2171-2179.
2. MacEachen, E., Kosny, A., Ferrier, S., Lippel, K., Neilson, C., Franche, R.L., Pugliese, D. The 'ability' paradigm in vocational rehabilitation: challenges in an Ontario Injured worker retraining program, *Journal of Occupational Rehabilitation*, 2012, 22(1), 105-117.
3. MacEachen, E., Kosny, A., Scott-Dixon, K., Facey, M., Chambers, L., Breslin, C., Kyle, N., Irvin, E., Mahood, Q. and the Small Business Systematic Review Team. Workplace health understandings and processes in small businesses: A systematic review of the qualitative literature. *Journal of Occupational Rehabilitation*, 2010, 20(2):180-98.
4. Eakin, J., MacEachen, E., Clarke, J. 'Playing it Smart' with return-to-work: Small workplace experience under Ontario's system of self-reliance and early return. *Journal of Policy and Practice in Health and Safety*, 2003, 1(2), 19-42.
5. Eakin, J.M. & MacEachen, E. Health and social relations of work: a study of health-related experiences of employees in small workplaces. *Sociology of Health and Illness*, 1998, 20(6), 896-914.
6. Senthanaar, S., MacEachen, E., Lippel, K. Return to work and ripple effects on families of precariously employed injured workers. *Journal of Occupational Rehabilitation*, 2020, 30, 72-83.
7. MacEachen, E., Senthanaar, S., Lippel, K. Workers' compensation claims for precariously employed workers in Ontario: employer resistance and workers' limited voice. *PISTES*, 2021, 23(1), 1-17. <https://journals.openedition.org/pistes/7173>. (OPEN ACCESS)
8. Billias, N., MacEachen, E. Sherifali, S. "I grabbed my stuff and walked out": Precarious workers' responses and next steps when faced with procedural unfairness during work injury and claims processes. *Journal of Occupational Rehabilitation*. E-pub August 4, 2022. <https://doi.org/10.1007/s10926-022-10058-3> (OPEN ACCESS)

Janet McLaughlin and Stephanie Mayell

[Migrant Worker Health Project](#)

[Migrant agricultural workers' deaths in Ontario from January 2020 to June 2021: a qualitative descriptive study \(springer.com\)](#) (OPEN ACCESS)

Cole, D., McLaughlin, J., Hennebry, J. and Tew, M. (2019). **Precarious patients: health professionals' perspectives on providing care to Mexican and Jamaican migrants in Canada's Seasonal Agricultural Worker Program.** *Rural and Remote Health*, 19(4).

McLaughlin, J., Tew, M., and Huesca, E. (2018). **Compounded Vulnerabilities and Creative Strategies: Occupational Health of Temporary Foreign Agricultural Workers.** *Sick and Tired: Health and Safety Inequalities*. Stephanie Premji, Ed. Fernwood.

Robert Macpherson

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The publications above include references to the work by Nicola Cherry (much of it supported by Policy and Practice and Return to Work) discussed in Robert's presentation. PDFs of the Macpherson et al. publications can be accessed through Robert at robert.macpherson@ubc.ca

Desai Shan

The research Desai presented on is ongoing so is not yet published. It has been presented previously at the Canada Transportation Research Forum in 2022. The reference for this is:

Shan, D and Medley, A (2022). Return to Work Following Workplace Injuries: Legal Challenges for Seafarers in Canada. 57th Canada Transportation Research Forum. June 12th – 15th.