

SURVEILLANCE IN LONG TERM DISABILITY (LTD) CASES

Frequently Asked Questions

Can your insurance company perform surveillance on you if you are apply for LTD, or if you are receiving LTD?

The short answer is yes. It is a legal way for the insurance company to “spy” on you if they suspect that you are not really disabled from working. This may seem like an invasion of privacy, and it absolutely feels that way to many, but it is legal, up to a point. There are things you can do to protect yourself from surveillance, and there are limits to what the insurance company is allowed to do when it comes to surveillance.

What kinds of surveillance can the insurance company do?

There are several types of surveillance insurers typically like to perform on claimants. Insurers hire private investigators and ask them to find out whatever they can about you, to follow you and to photograph and videotape you. Their goal is to get any useful information that can help them deny you LTD or cut you off benefits. There are 3 basic types of surveillance insurers ask investigators to perform:

1. Video and photographic surveillance;
2. Social media surveillance; and
3. Data surveillance.

➤ ***Video and Photographic Surveillance***

This is the most common type of surveillance insurance companies ask private investigators to perform. Basically, the investigator is given your private information by the insurer (name, address, etc.) and the investigator follows you with a camera, hoping to catch you doing things that may make it *look like* you are not disabled. For example, they may follow you driving, shopping, or picking up your children from school. They may follow you for several days in a row, or on several non-consecutive days. Private investigators know that most people like to go outside during long weekends and when the weather is good (i.e., summertime, around holiday time, etc.), so they will try to arrange to follow you then.

➤ **Social Media Surveillance**

Private investigators will try to access your social media profiles on platforms such as Facebook, Instagram, TikTok, etc. They will try to download and print any posts you put up that may make it seem like you are not disabled such as attending celebrations (birthdays, weddings, etc.), going on vacation and performing physical activity (such as helping someone move, playing sports, etc.)

➤ **Data Surveillance**

Data surveillance includes running a check on your driver's license, searching court databases to see if you are a frequent litigant in court, and just googling your name to see what comes up and in what context. Again, the goal is to gather as much information as possible about you for the insurance company so they can pick and choose what to use against you.

 **Are there any limits to the surveillance that insurance companies do?**

Absolutely. Private investigators are not allowed to communicate with you or contact you directly, but they are allowed to try and contact your friends, colleagues, co-workers, etc. These individuals do not have to speak with the investigator.

Investigators are also not allowed to harass you or interact with you in any way. However, following you or parking outside your home is likely not considered "harassment" since the investigator is on public property. That said, although the investigator may photograph and videotape you while outside on public property, filming you inside your home (through a window) may arguably constitute invasion of privacy.

Private investigators cannot get a warrant to alter your privacy settings on your social media accounts in order to gain access to them. They can only access what is available to the public at large. Keep that in mind. They also cannot do any data searches on you beyond what is available to the public or through common services and facilities, such as a driver's license search, etc.

 *What can you do to protect yourself from unwanted surveillance?*

First and foremost, assume that if you have applied for LTD, or are receiving LTD, your insurer has likely, or will likely, order surveillance on you. This is very common so you should be mentally prepared for it.

Second, be mindful of your actions, where you go and who you interact with because a private investigator may very well be filming and photographing you.

Third, be very careful of what you post online, anywhere and on any social platform. Investigators will most certainly try to see if you have posted anything that contradicts or *seems* to contradict the fact that you are disabled. Turn your privacy settings on to limit access to anyone outside your circle of friends and family, or consider stop posting altogether. This is obviously completely up to you but be very careful what you post because investigators will try to download anything that maybe helpful to the insurer.

Lastly, do not be afraid or intimidated by the prospect of being under surveillance. You are disabled and your doctors support you being off work. You have not done anything wrong. Live your life but be mindful of the fact that your insurer will most likely, at some point, hire a private investigator to do surveillance on you.

 *What can you do if your insurance company denies your LTD claim, or cuts off your benefits because of surveillance?*

If you are denied or cut off LTD because of surveillance, you **should** do the following 2 (two) things:

First, do not panic. Using surveillance to deny LTD or cut off benefits is a common tactic used by insurers. In our experience, surveillance rarely shows what the insurance company claims that it shows. There is almost always an explanation for what is seen on the video or photographs.

Second, contact us immediately. We have a lot of experience resolving cases with insurance companies where surveillance was used as an excuse by an insurer to deny LTD or cut off LTD benefits.

Below is a [link to a case](#) that was reported in the news about a teacher (Julie Austin) who suffered a brain injury due to an incident at school. Our Firm represented her successfully after her insurer cut her off LTD benefits due to surveillance:



 **Questions? Concerns? Contact us!**

Toll Free: 1-855-821-5900

Email: help@disabilityrights.ca

www.DisabilityRights.ca

or

Post your question and get an answer from one of our disability lawyers at

www.MyDisabilityQuestions.com

FREE CONSULTATIONS

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