

The Saint John & District Labour Council welcomes the opportunity to present some of the workplace challenges facing workers in the Saint John area regarding Workers Compensation to *The Independent Review Panel*.

The Saint John & District Labour Council is the largest Labour Council in the province. We represent workers from Sussex to St. Stephen with a total membership of approximately 6000 workers representing 43 local unions from a broad range of occupations.

Workers, not employers, pay the heaviest price for workplace accidents and illnesses that often are the result of inadequate training, poor employer safety practices, hazardous equipment, infrequent workplace inspections and weak or poorly enforced safety laws. It is imperative therefore that our health, safety and compensation laws, programs and service do in fact effectively protect workers and their families and also, treat injured workers fairly and with the utmost respect.

In 1993 Bill 55 was passed changing the Workers' Compensation Act, which severely reduced the amounts a worker would receive if injured on the job. They included such things,

- **a 3-day waiting period**
- **a reduction in benefits from 90% to 80% of net insurable earnings (85% after 39 weeks)**
- **new provisions effectively ending top-up benefits,**
- **as well as other cuts**

After partial restoration of some of the 1993 cuts, there is still **NO BALANCE** between worker and employer interests.

In fact the Workers' Compensation Act is in conflict with the Meredith Principles of workers' compensation. Workers who are injured while doing their jobs are not being provided with proper protection against loss of income. (**3day waiting period, no income at all**) Employers, on the other hand continue to enjoy low premiums and the advantages of a fully funded compensation system at the expense of injured workers.

Before we get started we would like *The Independent Review Panel* to understand that in our brief we will talk about some of the issues that are of concern for workers in our area but in no way reflects a complete list of the issues regarding the WHSCC. The Saint John & District Labour Council fully supports the New Brunswick Federation of Labour brief that will be or already has been presented to this Independent Review Panel.

CHANGING WORKPLACES FOR THE BETTER

In 1998, lost time-injuries were at a 6- year high of 6,099. For the year 2006 the total was 6,026, including eight fatalities. Between 1998 and 2006 the make up of the employment base has changed dramatically in our province. The industrial base economy of Saint John and New Brunswick has been slowly changing as the manufacturing base disappears and is replaced by jobs in the call centre sector or big box store retail type jobs. Yet no change in the accident rate. **SOME THING IS WRONG.**

The Saint John & District Labour Council believes that more education and a stronger focus on prevention of accidents in the work place will benefit workers and employers. This can only happen when the system has a true partnership between workers and employers, which would result in safer work places for workers and lower compensation rates for employers.

ENTITLEMENT RULES

Work related stress, it should be noted, is common place in the workplaces today and all too real because of understaffing and greater productivity demands on workers by their employers. To refuse to recognize as much and to deny work related stress claims for compensation is wrong and not in keeping with the purpose of workers' compensation. We would also like to note that at the Health Summit held in Saint John on October 11 & 12, 2007 the Hon. Micheal Kirby in his remarks about transformation on Health care stated "That stress in the workplace is real and should be covered under the Workers Compensation System".

Wage loss benefits

We believe that the compensation rate for loss earnings should be 90% of net earnings. The commission rolled this amount back to 80% in 1993 and restored 5% back in 1998. Most jurisdictions outside Atlantic Canada pay 90% of net earnings.

Waiting Period

This is the most out right attack on workers in this province, to think that a worker goes to work for his employer and though no fault of his/her own has an accident at work. He/She is penalized three days wages. The workers in New Brunswick are being unfairly forced to work through injuries or, to file for group insurance or sick leave benefits rather than report lost-time compensation claims. But at least workers in our neighboring provinces have the option of trying to negotiate replacement wages through their employers. This is not the case in New Brunswick making our waiting period even harsher and penalizing workers further. The Saint John & District Labour council request that the three day waiting period be eliminated.

Top-up Benefits

The Worker Compensation Act is punitive in its approach as far as workers rights and benefits are concerned. Restrictions against top-up constitute outright interference with the free collective bargaining process and the right of workers to freely negotiate all terms and conditions of employment.

Deeming

The Labour Council has always opposed the deeming process. We feel the deeming process continues to put workers on the welfare lines for survival when they are deemed fit for work for a fantasy land job with fantasy land wages.

Reducing the benefits of permanently disabled workers deemed fit for non-existent jobs are grossly unfair and must be stopped. The Workers Compensation Act should be changed to eliminate deeming other than in those special circumstances where an injured worker, without good reason, declines a “bona fide” offer of employment or retraining.

Until a real job becomes available that the injured worker can perform safely, we believe he/she should remain on full compensation benefits.

APPEALS SYSTEM

Time limits

The existing time limits for appeals- one year from the date of the decision being appealed, is far too short and, considering most WCBs have no time limits the current rules are very unfair. Also, until altered in 2001, the previous indefinite time frame for appeals posed no problem and was more equitable for workers.

Many injured workers are unfamiliar with workers' compensation legislation and policies. For the most part they are usually ill prepared to deal with unfavorable Board decisions concerning their claim for compensation. To impose a very narrow window of opportunity for the launching of appeals places undue pressure on workers. It also overlooks the time needed to consult and gather information in support of workers' compensation appeals, which often involve difficult medical issues.

The Saint John & District Labour Council recommends that the time limit for filing an appeal shall be indefinite

Decision time frames

Injured workers in general are disturbed that the overall time-frame for appeals, start to finish, has grown. For injured workers and their families caught up in appeals system delays. Legislated time frames, we feel, would serve to force all parties to expedite appeal hearings and the writing of Appeals Tribunal decisions; the hiring of the necessary resources to make this a reality could then be justified legally.

The Saint John & District Labour Council recommends that the appeals process be changed to reflect a 60 day time frame from start to finish.

