

Ontario Legal Clinics'

WORKERS' COMPENSATION NETWORK

Réseau d'échange des cliniques juridiques
de l'Ontario sur la loi des accidentés du travail

Reply c/o: Injured Workers' Consultants, 815 Danforth Avenue, Suite 411, Toronto, Ontario M4J 1L2
Tel: 416 461-2411 Fax: 416 461-7138

28 March 2013

Kathleen Wynne, Premier
Legislative Building
Queen's Park
Toronto ON M7A 1A1

Dear Premier Wynn:

Re: Workplace Safety and Insurance Appeals Tribunal
access to justice for injured workers

I am writing on behalf of the Ontario Legal Clinics' Workers' Compensation Network to express our concerns about the impact of the WSIB's austerity measures on the workers' compensation appeals system.

About The Network:

Legal Aid Ontario provides legal advice and representation to people who are unable to afford legal counsel through the legal aid certificate and community legal clinic programs. Community legal clinics provide services through 77 independent community legal clinics across the province. The clinics work in "poverty law" areas such as workers' compensation, housing, social assistance and immigration. The Ontario Legal Clinics' Workers' Compensation Network is the provincial organization of workers' compensation advocates in the legal clinic system.

The "Tsunami" that Hit the Appeals Tribunal.

In a public message posted on its website last month, WSIAT Chair Ian Strachan describes a "Tsunami" wave of appeals that swamped the Tribunal. Although the Tribunal staff shrank in 2012, the appeals caseload increased by over 40%. Ontario's WSIAT has a reputation for very high standards of administrative justice as a result of its emphasis on full and fair oral hearings. Mr. Strachan has noted that without adequate resources to deal with this increase, the Tribunal may need to consider the elimination of oral hearings and a significant reduction in full panel hearings.

The WSIAT is the last hope of injured workers for a just decision. The WSIB has already introduced measures to reduce or eliminate oral hearings. If the WSIAT follows, an injured worker may be denied all compensation and spend years passing through the levels of appeal without ever having met, face to face, with the person deciding their case. We urge you to

ensure that the Tribunal has adequate resources to continue to provide the same high standards of administrative justice.

We also urge you to address the source of this dramatic increase in appeals. In recent years, government pressure to increase the WSIB's funding ratio has led to austerity measures creating inappropriate pressure to reduce or deny workers' compensation benefits. These cases are now making their way through the appeals system. The result is a flood of appeals by those who received negative decisions from the WSIB. Intensified management oversight of decisions to pay benefits may help the WSIB balance its books in the short term but at great personal cost to the injured workers who must seek to appeal to obtain what the law provides.

The dramatic increase in negative decisions by the WSIB also presents a rising cost to the public. There is a growing trend in the number of injured workers seeking legal advice on their WSIB claims who have already turned to social assistance, Ontario Works or ODSP. The WSIAT is vitally important in ensuring that the cost of workplace injuries is allocated to the responsible employers rather than the municipal and provincial taxpayer. As appeal delays increase or oral hearings are cut back, injured workers simply give up on workers' compensation. The cost of workplace injuries is downloaded onto our publicly funded health care and social assistance systems.

Please look into this. The workers' compensation system is an important part of Ontario's justice system, serving as a surrogate for the courts since 1915 when injured workers gave up the right to sue in return for no-fault compensation for work related injury and illness.

Thank you for considering this issue.

Yours truly,
Ontario Legal Clinics' Workers' Compensation Network,
per:



Ivana Petricone
Co-Chairs



John McKinnon,

Copies: Ian Strachan, Chair, WSIAT
Yasir Naqvi, Minister of Labour
Ontario Bar Association, Workers' Compensation Section