

BRIGHT LIGHTS
INJURED WORKER GROUP

c/o Beryl Brown P. [REDACTED]

Hon. Ms. Linda Jeffrey
Minister of Labour
400 University Ave.,
Toronto, Ontario.
M7A 1T7

September 18th, 2012

Dear Hon. Ms. Jeffrey,

We have not had occasion to meet with you yet, however we were pleased to see you at the June 1st event this year. We are a group of injured workers in Toronto that has been meeting for about 20 years to provide peer support and to understand our compensation system and seek improvements to it.

We have met to-day to learn about the proposed changes to our workers compensation system (WSIB) appeals system and to discuss these changes. We agree that the appeals system needs to provide faster service to injured workers, however the changes proposed by the Board have little to do with faster service and more with significantly reducing service. The proposals will clearly reduce access to appeals and to justice for injured workers. Please find attached a copy of our submission to the Board on this issue. We do ask that you take note of this issue in your capacity as Minister of Labour which oversees the WSIB/WCB and take some action. While the Board is free to make its own policies and practices, it should not be allowed to deny justice.

Hon. Ms. Jeffrey, we would also very much like to meet with you to discuss this issue and other issues that concern us as injured workers. Over the years we have met with the Ministers of Labour both at 400 University Ave., and also at the offices of Injured Workers Consultants community legal clinic where we hold our meetings. We would be pleased to meet with you in either location.

Thankyou for your attention to the serious matter of appeals at the WSIB/WCB and we look forward to meeting with you.

Yours Sincerely,
Bright Lights Injured Workers Group

Epaminontas LIADIS

~~Russell~~

IPPOKRATIS BELCARIAS

William
Bluffman

Sarinder Garcha

Amranga Gonzales

~~Jan~~

~~THOMAS~~ HUNG TANG

Sylvia Clarke

Vilje Santos

AbulKarim Muslem AbulKarim

NYISHER DAKA

Wally

~~Signature~~

S. Khan

Michelle Lee

Deter Tadjelt

~~Signature~~

Bright Lights

- cc Hon. Mr. Dalton McGuinty, Premier of Ontario
- Hon. Mr John Gerretsen, Attorney General of Ontario
- Ms. Andrea Horvath, Leader NDP
- Mr. Sidney Ryan, President Ontario Federation of Labour
- Mr. Harry Arthurs, author of Funding Fairness

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c/o Beryl Brown

Ms. Slavica Todorovic
Director of Policy
WSIB/WCB
200 Front St. West
Toronto, Ontario
M5V 3J1

September 18th, 2012

Dear Ms. Todorovic,

We have met to-day to learn about the proposed changes to our workers compensation (WSIB) appeals system and to discuss these changes. We agree that the appeals system needs to provide faster service to injured workers, however, as far as we can tell, the changes proposed by the Board have little to do with faster service and more with significantly reducing service. The proposals will clearly reduce access to appeals and to justice for injured workers. We are very concerned.

Please find attached a copy of our submission on this issue.

Yours Sincerely,
Bright Lights Injured Workers Group

Dexter Tatchell
Michelle Kie
Janice Binkley
JAMES HUNG TRAN
Sylvia Clarke
L. W. [unclear]
Suzanne Garcho
Anurag [unclear]

WISHER DAKPA
Beryl Brown
P. [unclear] [unclear]
ABPOORATHI VELGANDI
[unclear]
Epaminondas KIADIS
S. Khan
Julie Santos

cc Hon. Mr. Dalton McGuinty, Premier of Ontario

Abdulkarim Mustem
Abdulkarim
[unclear]

cc Hon. Mr. Dalton McGuinty, Premier of Ontario
Hon. Ms. Linda Jeffrey, Minister of Labour
Hon. Mr John Gerretsen, Attorney General of Ontario
Ms. Andrea Horvath, Leader NDP
Mr. Sidney Ryan, President Ontario Federation of Labour
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BRIGHT LIGHTS INJURED WORKER GROUP

Submission on the Proposed Changes to the Appeal System

We have taken time to study the proposed changes to the Ontario workers' compensation system's appeals process. We have discussed the changes and their implications for our community. We are highly concerned about the proposals and in fact can hardly believe our eyes and ears that such changes are being contemplated.

Here are the main elements of our discussion and concerns about the proposed changes:

Breaking the Historic Compromise

The idea that a person who seeks an appeal should have to sign an "Acknowledgement of Risk" is an abhorrent concept and a frightening one.

Our group unanimously agreed that everyone would most likely abandon an appeal rather than sign such a statement, with the implication that previously granted entitlements could be taken away. Frightening injured workers into abandoning their appeal will clearly reduce the backlog and ensure that another one does not develop. The statistics will look good, the "unfunded liability," will be reduced, Mr. Marshall will get his bonus—but justice will not be served.

Our compensation system was set up in 1915 on sound principles of remedial legislation to serve the real needs of those injured on the job. Because workers gave up their right to sue (to afford employers protection as well in what was known as the "historic compromise") the system was to take special care to ensure that injured workers would receive full justice under the care of a workers' compensation board.

One of our members had a recent experience in calling the WSIB/WCB to indicate that he wanted to appeal. He was told, "Be careful what you wish for." It was wrong to be spoken to in that manner. It was hurtful and it was very discouraging.

Another member, in disbelief looking at the consultation paper and the “Acknowledgement of Risk” statement, looked up and said, “This will make injured workers sick. They are already having problems and this will produce such stress, they will get sick.”

The Board’s power to reconsider its decisions provided for in Section 121 is an important and reasonable part of the legislation. It allows for the correction of significant errors and can be used to assist in an improved outcome for injured workers where the merits allow for that. It is not appropriate to use this power to open up all issues at the time of an appeal.

Access to Justice Limited

Surely there can be no doubt that, at least in this day and age, full justice means full access to justice. Frightening injured workers clearly does not provide access. Other serious access problems are also evident in the proposed changes.

The complexity of filling out the Intent to Object form simply places another obstacle in the way of pursuing an appeal.

While we appreciate that forms may help to organise and identify information in a useful way, to rely on the form as the only means to launch the appeal process and to meet the time-limit reduces our access. Even those of us who speak English well can be held up by a form, but for those of us with limited English, we must get help to fill it in and that causes delay and worry. At present, it is possible to simply indicate verbally that we object to a decision and the claims manager will send us an objection form and begin the process. We need to be able to continue in that less formal manner.

Full access to justice also means the ability to have an oral hearing. Any one of us could agree that on a particular appeal we might agree to have it dealt with in writing, however that would be rare. It is our experience that the hearing in person is very important.

The proposal is to limit oral hearings for “complex entitlement decisions.” How can it be pre-determined what is complex and what is straightforward? It is our experience that the facts and context of a case is often more complex than it appears on paper. One of our members recently had to spend considerable time convincing the ARO that an oral hearing should be held. The ARO felt that the issue was a “straightforward” medical compatibility question. In the hearing the nature of the accident became much more clear through the workers

testimony and this had significant bearing on the understanding of the “medical compatibility.”

The hearing in person is also important for its therapeutic value. There are few of us who have ever met face to face with a decision maker from the Board. We feel isolated and unknown and not understood. It is at the Appeal Hearing where we are finally able to feel that we are being seen as a person and being heard. Even if the appeal is denied, we still take comfort that we were seen and listened to. If an injured worker wants an oral hearing he/she should have that right.

Consultation process is insufficient for such significant proposals

We must also express our concern about this consultation process itself. It is clear that the WSIB had intended to swiftly implement its proposed changes with minimal consultation. Even with an extended deadline to provide the opportunity for more people to learn about and respond to the proposals, the limitation to written submissions is a problem. We know, and you know, that public oral hearings provide the most accessible and meaningful means of consultation. In an oral hearing questions to the presenters can be asked and discussion can be had. In an oral hearing, those who are not comfortable with composing a written submission can still have their opinions known and considered.

Hold public hearings

The proposed changes to the appeal system are profound changes that will negatively impact on injured workers and their families as well as society at large. We recommend and request that at least some element of public hearings are arranged for in key centres around the province.

Resolve the problem of appeal backlog in a suitable way.

First and foremost we recommend and request that the proposed changes be laid aside and that the Board resolve the issues it has identified through other means. We would be pleased to engage in a discussion regarding other ideas. The principle way to deal with a backlog is to hire, on a temporary basis, more appeals adjudicators. To prevent a new backlog, the principle solution is to ensure that decisions are made well in the first place providing entitlements based on the principles of remedial legislation.

Our compensation system needs to be kept as simple and straightforward as possible and to ensure that injured workers have clear access to appeal decisions and are supported by the Board in that effort. The historic compromise must be honoured.

Respectfully Submitted by

Bright Lights Injured Workers Group

September 18th, 2012