



CHINESE INJURED WORKERS' GROUP

華人受傷工人組

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Submission

From: The Chinese Injured Workers' Group
RE: The proposed changes in the Appeals System

In our recent group meeting we reviewed the paper on proposed changes in the Appeals System. Our group has the following concerns:

To speed up the appeals process no need to take away/ limit our rights on oral hearings

To shorten the lengthy waiting time for appeals at the WSIB is a good idea and it is the right thing to do to reduce the stress placing on injured workers after their workplace accidents. However, to eliminate or tighten up the issues that can proceed with oral hearings at the Appeals level is not the right solution to solve the problem.

In our experience, the Claims Adjudicators or now called the Case Managers who handle our claims mainly based on the information on file. They treat us like enemy, we are just a number. Most of them, they don't like to meet with us in person. As such, when we disagree with a decision and file objections, we look forward to meeting with someone from the higher level to talk to us in person. A face to face meeting provides us, the injured workers, an opportunity to express ourselves in our own words. When it is not easy to get the message across, we can assist with body language to explain our points. We, the injured workers are human beings, not just a number. Oral hearings give us a sense of "respect" and make us feel that our voice finally gets heard by someone from the higher level at the Board. We believe when the decision makers give a human face to the claims, it helps them in the decision making process. We believe the proposed changes in appeals system will take away and limit our workers' rights.

To modernize the Appeals System no need to complicate the current appeals process.

A lot of our group members are new comers to Canada and English is not our first language. Although we have adequate English skills to manage our daily life, when it comes to legal procedures, we have to seek assistance.

The current appeals process is complicated enough for injured workers whose first language is not English. It takes time to locate professional help that is just to fill out the objection form and explain the appeals process.

The experience from our group is that finding a legal representative is not easy and it is time consuming. Thus, you can imagine to locate a legal representative who speaks our language will be even harder. If the Appeals process is getting more complex, that is more forms and the forms are more complicated to fill out, definitely it places a road block to injured workers.

We believe the proposed changes only generated two options for us to choose, that is either give it up or miss our time limit to get justice. The proposed changes in Appeals system will only place more stress on us, the injured workers and prevent us from seeking justice.

A justice appeals system not a retributive appeals system

In the proposed Appeals system changes, it emphasized the downside risk and required injured workers to sign a form to acknowledge the risk they agree to take on if they file an appeal. This is not providing a justice appeal to injured workers, it is more like a threat. The experience from our group is when we requested the Appeals Resolution Officer to look at an issue that is not under appeal, the ARO responded by saying “No” as they don’t have the authority to do that, as they can only deal with the issues under appeal. If we want the ARO to look at the matters, we have to submit our objection and go through the appeals process.”

Under the proposed Appeals Changes, the ARO is given the power to look at issues that are not under appeal and if necessary they may take away what have been allowed previously.

To the best of our knowledge, we, the injured workers only fight for the issues that we strongly believe we are entitled to, as such, taken away what we have already been allowed did not happen that often. However, when it is put into writing and required acknowledgement from us, the injured workers, definitely it creates a hurdle for us, the injured workers who seeks justice in the appeals system. It is because we, the injured workers have already lost a lot due to our workplace injuries, not only financially but also in other aspects, such as our health and family. As such, we cannot afford to take any additional risk to lose more than what has already been given to us.

Our recommendations:

Apparently, the proposed changes in the Appeals system is not working on the right direction to improve the system, it is rather making the current system more bureaucratic, intimidating, retributive and unmerited. In our opinion, to improve the lengthy appeals process, the board should consider to

-Provide better training to the Case Managers not only case work skills but also their ethic so they can make the decisions right at the lower level. Case Managers should not just listen to the story from the employers. They should have a more open mind to listen to the workers' story. They should show more sympathy. We, the injured workers want justice, therefore, if the decisions are made correctly and fair at the lower level definitely would generate less appeal.

-Simplify the appeal process, such as less form. Just a simple 1-2 page objection form with instructions on the side. If necessary, it will be the injured workers discrepancy to attach supplementary documents to explain their position.

-Let the appellants either injured workers or the employers to determine the format of the hearing. If necessary, have a discussion with the Appeal Officer to determine how to proceed with the appeal. Our right for an oral hearing should not be taken away. It is important to note that when we have a simple parking ticket, we have our right to demand an oral hearing. As such, oral hearings are vital to injured workers in the Workers' Compensation appeals system. Our right should not be taken away or limited.

-Limit the authority for the Appeals Resolution Officers to deal with the issues under appeal. The only condition they can look into other issues that are not under appeal is when there is a fraud situation.

-Hire more Appeals Resolution Officers who speak second languages including Chinese (i.e. Mandarin and Cantonese). Definitely this will assist the appeal process.

In conclusion, if the Board is aiming at shortening the waiting time for appeals and clear the backlog at the Appeals Branch, the simplest solution is to make sure the Case Managers at the Operational unit provide right and fair adjudication and hire more Appeals Resolution Officers to handle appeals. It is unnecessary to change the current Appeals system.

We look forward to seeing a more transparent, fair and timely appeals system to provide justice for injured workers. If you like, we are happy to meet with you to further discuss our concerns and bring forward to you with more specific issues and concerns in the Chinese community.

Thank you.