



## **Thunder Bay & District Injured Workers' Support Group**

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### **WORKERS' COMPENSATION: justice not poverty for injured workers**

Our workers' compensation system is meant to protect workers, their families, and the broader public against both the harm and the costs of work-related injuries. This system was created to provide injured workers with prompt and secure benefits that compensate them for as long as they are disabled. Workers' compensation is supposed to be no-fault, prompt, and non-adversarial. Perhaps most importantly, the workers' compensation system was designed to ensure that employers collectively pay the costs of workplace injuries, instead of foisting those costs on injured workers, their families, and the rest of us.

#### **An all-out assault on the fundamental right to workers' compensation**

If unchecked, recent initiatives by the Workplace Safety and Insurance Board, will spell the end of workers' compensation as we have known it. The Board's management, led by CEO and President David Marshall, with the apparent support of the provincial government, have instituted changes that will limit workers' entitlement to benefits to a short period after the injury. Instead of a system that compensates workers for injuries, we will be left with system where most workers' claims are denied and the few workers whose claims are accepted will be forced either back to work or into poverty.

#### **Designing workers' compensation to fail.**

Our workers' compensation system is being designed to fail workers. Too many injured workers face lengthy litigation against their employers before they see a cent from the Workplace Safety and Insurance Board – and the situation is getting worse. Employers are being absolved of the true costs of workplace injuries, as injured workers are forced onto social assistance, ODSP and other social programs that are already under strain. New policies and practice are being implemented every day to speed up these developments.

#### **A private-insurance approach that hurts injured workers.**

The Board treats injured workers as risks to be “managed,” not as victims who must be compensated for their losses.

The Board is taking measures to further reduce compensation paid to injured workers either by denying claims more frequently or by getting workers off of benefits faster. This is achieved through a variety of tactics, including:

- **Denying more claims:** The Board routinely denies claims regardless of the medical evidence. More and more often, the Board attributes such injuries to so-called “pre-existing conditions”, even if such conditions never bothered the worker before the accident. Older workers are particularly vulnerable to this tactic: the Board recently began denying almost every case where there is any evidence, no matter how unpersuasive, that the worker had an age-related degenerative disease.
- **Forcing injured workers back to work too soon:** Instead of compensating injured workers, the Board forces them back to work immediately. The Board is forcing injured workers back to work either before they are medically fit to return, or to an unsafe or unsustainable job. When such attempts to return to work fail, the Board terminates the benefits because of the injured worker’s “non-cooperation”.
- **Ignoring difficulties injured workers have finding work:** The Board has intensified its practice of deeming injured workers; thus reducing benefits even for severely disabled workers who obviously have little chance of returning to work. (Under the *Workplace Safety and Insurance Act* the Board is allowed to pretend that injured workers have returned to work, even if they haven’t. The Board then reduces the workers’ compensation to reflect the pretend earnings from the pretend job. The Board ignores the substantial barriers injured workers often face when competing in the job market: it is much harder for disabled individuals to find work.)
- **Increasing incentives for employers to fight workers:** The Board plans to extend experience rating incentives. Through this incentive system, the Board encourages employers to contest, manage, and appeal injured workers’ entitlement to compensation. Under experience rating, employers pay less if they can reduce the compensation paid to injured workers. This makes injured workers and their employers into adversaries. But the fight is never fair: employers have more resources and more power. The results predictably include more delay, more uncertainty, more denials, and, often, more depression and anxiety for injured workers.
- **Leaving uncovered workers vulnerable:** The Board and the provincial government are doing little to address the plight of workers who are excluded from the workers’ compensation system. More than three of every ten workers in Ontario aren’t covered by worker’s compensation legislation. Many of these workers have no protection against the threat of injury at work. Unfortunately, because the workers’ compensation system only covers a rarely-updated list of industries, more and more workers will find themselves excluded as Ontario’s economy changes.

This must stop. We resolve to fight for dignity and safety on the job and the right to fair and full compensation for injuries. We cannot allow our workers' compensation system to leave injured workers in poverty.

We demand the Ontario government to reverse the direction it has been taken in regards to workers' compensation. Our workers' compensation system should include:

1. Financial security (injury should not equate poverty).
2. Respect for treating doctors' opinions.
3. Lifetime compensation for lifetime disability.
4. Full cost of living adjustments (COLA).
5. Full coverage.
6. A non-adversarial system.