



WOMEN OF INSPIRATION

Offering Support, Knowledge Transfer & Education
and Outreach to Women Injured at Work

Eric Rennie
Clerk, Standing Committee on Finance and Economic Affairs
Room 1405, Whitney Block
Queen's Park
Toronto, ON
M7A 1A2
erennie@ola.org

Dear Standing Committee on Bill 148:

Re: Minimum Wage Impact on Injured Workers

The Women of Inspiration have been meeting regularly since 2004. We were organized by a group of injured worker women who shared the same feelings of isolation and grief. We believed that forming a group would help us to fight for our rights as injured workers, while creating a space for mutual support as women, as parents and as care givers.

We support the progressive change proposed by Bill 148

Bill 148 includes many positive provisions that workers across the province have been advocating for many years, including equal pay for equal work between full time and part time workers, fairer scheduling, personal emergency leave, and easier access to union protection. If the proposed changes were implemented it would mean greater protection against precarity and the ill effects arising from working precarious hours.

This is a much welcomed by us. As you are aware, women still face disparities in income and employment conditions; many in part time, non-union, temporary and precarious jobs that aggregate the possibility of women workers getting injured more often. Therefore, protection for workers in precarious labour markets and the raising of the floor by providing workers with better employment security and benefits are much welcomed by us.

c/o Injured Workers' Consultants
815 Danforth Ave, Suite 411, Toronto, Ontario M4J 1L2
Phone: (416) 461-2411 Fax: (416) 461-7138



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Minimum Wage increase will hurt injured workers

However, we want to raise our concern that the rise in minimum wage will hurt many injured workers; unless there is intervention and obligation by the Ministry and the WSIB. The rise in minimum wage will definitely help all workers in Ontario, but because of the Ontario Workers' Compensation Board's (WSIB) practice of 'deeming'/'determining', injured workers will be adversely affected. Put simply, *deeming* occurs when the Board reduces an injured worker's compensation with the pretence that injured workers can be employable, even if they are not able to work due to the injury and have no employment income. A fact sheet on how deeming works has been attached to this letter.

Deeming and minimum wage

When the minimum wage goes to 15\$/hour, unemployed deemed injured workers will receive a reduction of compensation from the WSIB. Injured workers would have no choice, but to fall into other social assistance programs such as OW and ODSP for sustenance.

Tewduda's story

Tewduda, a member of our group was *deemed* by the WSIB. Like many health care and support workers, Tewduda suffered a back injury while lifting a patient. In need of medical care and dealing with constant pain, she applied to the WSIB. The Board decided she could be retrained as a cashier. Her injury meant she was unable to work in this type of position, and as a permanently disabled worker, unlikely to be hired if fit to work. But under deeming, the Board proceeds as if jobs are suitable and available – so her benefits were cut by the assumed wage from this non-existent job. Tewduda found herself unable to pay her rent on this minimal income, facing the prospect of moving to a shelter and unable to take care of her family.

No one should be left behind

The demand to raise the minimum wage is good for all Ontario workers. But as we have pointed out above, it creates a dilemma due to deeming. When the minimum wage goes up, injured workers' benefits do down; leaving many of us;

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who were once able to participate in the labour market and reap the benefits of a higher minimum wage; to be penalized.

We ask that injured workers are not penalized by the increases in the minimum wage. We ask for urgent action to be taken by the government and the WSIB to prevent all injured workers from being affected by any increase in the minimum wage, due to deeming.

Thank you for taking our voices into consideration,

Women of Inspiration

CC

Honourable Kevin Flynn
Ontario Ministry of Labour
400 University Avenue, 14th Floor
Toronto ON
M7A 1T7

Tom Teahen
200 Front Street West
Toronto, Ontario M5V 3J1

c/o Injured Workers' Consultants
815 Danforth Ave, Suite 411, Toronto, Ontario M4J 1L2
Phone: (416) 461-2411 Fax: (416) 461-7138

Juc R

Hannah Alexander

Douglas Abbott

Stacia Abbott

Brenda Keogh

Wita Dewi

Filipe Santos

Sang-Mun Kim

Dan Byrd

Maryann Byrd

Marie

Jeanette Blake

Christine Nezyant

Sam

Catherine Tenece

Shane & Sammie

Ruth

Eden Marshall

Fonting

Sylvia Clarke

Minimum wage and “deeming”

Backgrounder

What is deeming?

“Deeming” refers to the practice used by the workers’ compensation Board to decide the compensation that it will pay for loss of earnings as a result of workplace injury or illness. It reduces a permanently injured worker’s loss of earning benefits under the pretence that the worker is employed - when the reality is that they do not have a job and, in many cases, are not able to work due to their injuries. This systemically leads to poverty among injured workers.

Case example

Vinay earns \$18 an hour when he suffers a permanent back injury and cannot return to his old work. While recovering from his accident he receives full loss of earnings benefits (85% of net earnings) of \$2163 per month. But soon the WSIB says it’s time to go back to work. Although he has limited education, no Canadian education, limited English skills, no related work experience and a ‘bad back’, the WSIB deems Vinay able to work as a parking lot attendant. He is given a little English-as-a-second-language training. The Board says he could earn minimum wage of \$11.40 an hour as a parking lot attendant. Vinay’s benefits are cut to \$726 per month. But Vinay is never able to get a job. His family cannot survive on this and must go on social assistance.

Thousands of Ontario families are forced onto our publicly funded social assistance programs because their workers’ compensation benefits were below the ‘poverty line.’

Injured workers feel cheated out of compensation justly owed

Instead of looking at what the injured worker is actually able to earn in suitable and available employment, the Board deems most injured workers to have returned to full time gainful employment after their injury, Essentially, the WCB dreams up a “phantom” job that it claims the worker could get, takes away wages the worker is deemed to be earning, and leaves the injured worker with little or no compensation benefits, regardless of whether the injured worker is employed or not.

If an injured worker tried to increase his benefits by misstating his earnings as lower than reality, he would be penalized for cheating. However, when the WSIB misstates his earnings as higher than reality, it reduces benefits and keeps the money with impunity.

Who benefits from the practice of deeming? As benefits continue to decrease, they will be downloaded onto our government funded social assistance programs and off the workers' compensation system that is paid for by the employers who caused the injuries.

Unemployment is the reality of most permanently injured workers

A 2009 audit of the WSIB vocational rehabilitation (labour market re-entry) program found that the process was not helping most injured workers. At 18 months after completing a retraining program, more than half of the 'graduates' were unemployed.

These statistics are similar to those in a Statistics Canada 2014 report which found that only 49% of people with disabilities are employed. Quite simply, permanently disabled injured workers are likely to face unemployment. But invariably, the system pretends that they are working and pretends they have a good income and condemns them to suffering and poverty.

Deeming, the Minimum Wage and Bill 148

Although more than 50% of Canadians with disabilities are not employed, the WSIB believes that almost every injured worker can get back to work at minimum wage. The WSIB can review this decision at any time for 6 years after the accident. When the minimum wage goes up to \$14 an hour in January 2018 under Bill 148, Vinay's WSIB benefits will be cut again to \$440 a month and social assistance has to make up the difference. A year later the minimum wage increases to \$15 an hour and Vinay's WSIB benefits will be cut down to \$330 per month, but he is not able to work.

The demand to raise the minimum wage to \$15/hour is of central importance to all workers. But there is a dilemma in how injured workers relate to this demand. Because of "deeming" - one of the WSIB's more insidious mechanisms to cut people off benefits - when the minimum wage goes up, injured worker benefits go down.

What justice calls for from Ontario's government

- Urgent action to prevent all injured workers from being negatively affected by any increase in the minimum wage, due to "deeming."
- Reform to ensure that our workers' compensation system is no longer based on "deemed" or "phantom" jobs and earnings, but based on actual or real wage losses incurred by permanently disabled injured workers.

Effects of WSIB's DEEMING policy

Occupation	Pre-injury Income	Net Average Earnings - (40 hour work week avg)	Loss of Earnings is calculated at 85% of net	Impact of Deeming Min Wage Deducted \$11.40 x 40 hours x 85% + deductions	Impact of Deeming Min Wage Deducted \$15.00 x 40 hours x 85% + deductions	Reliance on Social Support Systems (Municipalities, OW, ODSP) *if <u>eligible</u>	Impact to Injured Worker
<u>Cashier</u>	\$13.00 hourly	\$520.00 - deductions = \$437.88	85% of \$437.88 = \$372.20	\$372.88 - \$332.26 = \$40.62 Loss of Earnings paid (weekly)	\$0 Loss of Earnings paid (weekly)	Worker heavily reliant* on provincial and municipal systems and becomes fully reliant* based on \$15.00 min wage	Esteem plus abject poverty and all ailments and afflictions associated with it.
<u>Press Operator</u>	\$28.00 per hour	\$1120.00 - deductions = \$864.31	85% of \$864.31 = \$734.66	\$734.66 - \$331.57 = \$403.09 Loss Of Earnings paid (weekly)	\$734.66 - \$422.92 = \$311.68 Loss of Earnings paid (weekly)	Worker will likely not qualify for any further assistance	Esteem plus abject poverty and all ailments and afflictions associated with it.
<u>Shipper/ Receiver</u>	\$20.00 per hour	\$800.00 - deductions = \$647.02	85% of \$647.02 = \$549.97	\$549.97 - \$331.58 = \$218.39 Loss of Earnings paid (weekly)	\$549.97 - \$422.99 = \$126.98 Loss of Earnings paid (weekly)	Worker will likely not qualify for any further assistance but becomes partially reliant* based on \$15.00 min wage	Esteem plus abject poverty and all ailments and afflictions associated with it.

Injured Workers are part of the Fight for \$15 and Fairness

For injured workers, Fairness means:

- Universal employment standards coverage, universal workers' comp coverage: About 1/3 of workers in Ontario are not covered by workers' compensation, and are therefore at greater risk of and falling into poverty if they are injured at work. Just as all workers deserve minimum standards of work when they are working, so too do all workers deserve the same protections in case of injury or illness on the job.
- No downloading onto temp agencies: More and more, employers are downloading their responsibilities for both minimum standards and workers' compensation onto temp agencies. In the workers' comp system, injuries to temp agency workers are recorded in a way that encourages employers to outsource risky jobs to agencies. Temp agency workers are deemed more disposable and are more likely to be injured on the job.
- We need actual accountability measures to be put in place, to stop employers and temp agencies from gaming the system.
- Protections for workers, enforcement against employers: Employers frequently try to suppress claims, and punish workers for reporting their injuries. Even though this is technically illegal, there is only weak enforcement against employers who do it. For both employment standards and workers' compensation, we need real protections for workers' rights, and real enforcement against employers who try and skirt the law.
- End workplace harassment and bullying: Currently, the WSIB rejects all claims from workers who develop mental health consequences from chronic bullying or harassment in the workplace. This blanket rejection has been declared unconstitutional, but the WSIB refuses to change. Fulsome protection from workplace bullying and harassment means ensuring that the compensation system recognizes and compensates people for it.

Precarious employment & Injured workers:

What's the connection?

Just as we struggle for employment standards that treat all workers with dignity and respect at work, we must also struggle for workers' compensation that meaningfully and holistically supports people through their injuries.

Workers who are in precarious and low-waged jobs are:

- At greater risk of being injured at work.
- Less likely to report injuries and unsafe working conditions.
- Significantly more likely to fall into poverty when they are injured.

By the numbers:

Benefit cuts and injured worker poverty

The Workplace Safety & Insurance Board (WSIB) is more concerned with cutting its own costs than in protecting the well-being of injured workers:

- Between 2009 and 2015, \$1.16 billion have been cut from overall benefits to injured workers.
- 46% of permanently disabled injured workers live in or close to poverty. It's not uncommon for injured workers to become homeless after being cut off benefits. Families are broken apart due to the financial and emotional strain of dealing with the compensation system.

This is the injured worker front in the broader battle against austerity – a battle that we can win with a unified voice and collective power.

For injured workers, Fairness also means: End the practice of “Deeming”

The demand to raise the minimum wage to \$15/hour is of central importance to all workers. But there is a dilemma in how injured workers relate to this demand. Because of “deeming” – one of the WSIB’s more insidious mechanisms to cut people off benefits – when the minimum wage goes up, injured worker benefits go down.

“Deeming” is when WSIB cuts people’s benefits by dreaming up a phantom job that it claims a worker could get. It then pretends they are earning the salary of the non-existent job, and cuts their benefits by the amount of the phantom salary. The extra harmful thing is that when the minimum wage is increased, the WSIB is able to deem people at a higher phantom wage as well.

What this looks like in reality:

- Joanna is making \$15/hour when she has a permanent back injury and can't go back to her old job.
- The WSIB “deems” Joanna to be working as a customer service representative and making minimum wage, even though she doesn't actually have a job and in fact isn't able to work at all.
- Joanna’s benefits are cut by \$11.40/hour, and she now only gets about \$3/hour in benefits. Joanna falls into poverty.
- When the minimum wage goes up to \$15/hour, Joanna is now deemed to be making \$15/hour. Her benefits cut by that amount, and she no longer even gets the \$3/hour she would have before.

Let's End Deeming Now!

The struggle for decent work and the struggle for decent workers' compensation are inextricably linked.

- ✓ Let us demand a \$15 minimum wage for all.
- ✓ Let us demand fair working conditions.
- ✓ And let us also demand a fair workers' compensation system that protects injured workers at the same time the floor is raised for all workers. Let us join forces in the rising tide against austerity.

For more info on injured workers, visit: injuredworkersonline.org - Twitter: @ONIWG