

Thunder Bay & District Injured Workers Support Group 150 Castlegreen Drive, Thunder Bay, ON P7A 7T9	Injured Workers Community Legal Clinic 815 Danforth Ave., Suite 411 Toronto, Ontario M4J 1L2
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25 April 2023

Mr. Paul Dubé
OMBUDSMAN OF ONTARIO
483 Bay Street
10th floor, South Tower
Toronto, ON M5G 2C9

Sent by email to: info@ombudsman.on.ca

Dear Mr. Dubé:

Complaint regarding WSIB drastically reducing time for injured workers to appeal decisions

The Thunder Bay & District Injured Workers Support Group is a non-profit fully volunteer run organization that provides assistance and peer support to workers and families of workers injured or killed in the workplace. Injured Workers Community Legal Clinic is a community legal aid clinic specializing in workers compensation law that provides legal advice and representation without charge to injured workers.

We wish to complain about the KPMG value for money audit of the appeal system and the WSIB's response to it. We are concerned that this will disentitle most injured workers and ignores the disability needs of the injured worker population, especially those with significant permanent disabilities and who have developed mental health challenges as well as dealing with poverty and unemployment. Your office is no doubt aware of these challenges, as many injured workers deal with you.

A key KPMG recommendation is to reduce the injured worker's time to appeal from 6 months to one month. This would require a change in the legislation governing the rights of injured workers. KPMG does not deal with injured workers, and went beyond its "value for money mandate". What is even more shocking to us, is that the WSIB management agreed to work with the Government to change the legislation. They cannot imagine how this would impact injured workers. They should know better and stand up for disability accommodation. There is no crisis in the WSIB Appeals Branch, their statistics show the number of appeals has decreased by 1/3 over the past 20 years.

A one month time limit would be disastrous and practically cancel the right to appeal a negative decision. And there are additional time limits proposed to require filing legal arguments and evidence in 30 day periods in order to proceed with an appeal. We have discussed this with many injured workers and together we held a community forum on April 18, 2023. This is what we heard:

*There are delays in receiving the WSIB decision in the first place, sometimes it arrives late.

*We cannot understand the decision fully. Some need an interpreter. Some need to find a representative. Almost 10% of all appeals are launched by injured workers without representatives.

*The WSIB appeal form is only available via a website. If a worker has no computer he/she is asked to call the WSIB for them to send it.

*We are required to fill out a form that tells the WSIB the full reasons why their decision is wrong. This requires a full review of the WSIB file and the reasoning behind the WSIB decision

*The WSIB file, which is necessary to send full reasons to the WSIB, more likely than not, will arrive after one month

*All WISB files are now released electronically. Some of these files are several thousand pages long. How will an injured worker, assuming they have a computer, be able to print all in a timely manner?

*It takes time to seek legal advice. Places like the Office of the Worker Advisor, unions and legal clinics, as well as private law firms, do not schedule appointments in a short time frame. If this goes through, there would be a flood of injured workers seeking timely advice, it would further delay the timeline for help, ironically.

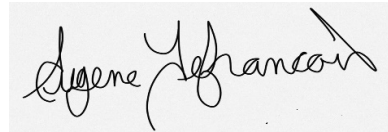
*A very heartfelt message for help and understanding was that the proposal hurts disability rights and accommodation due to disability, which is part of Ontario's human rights legislation. Injured workers are disabled. They often experience discouragement, depression and other mental health issues. This is well documented in the literature and your office knows. People pointed out that people with permanent disabilities, with many appeals over time will be negatively affected. How will they possibly respond in one month? Even the 6 month time limit was difficult. Many appeals are filed at the WSIAT on this particular deadline. The one month time limit will be a terrible act of disqualification, instead of reasonable accommodation.

* Not only are fewer injured and disabled workers getting "compensation as long as the disability lasts" – the goal of the system founded more than 100 years ago, but an increasing number are ending up with a mental illness caused by their treatment by the WSIB.¹

*The one month time limit will also exclude vulnerable communities. People with language barriers, indigenous injured workers, racialized injured workers, injured workers with low education and all those living in poverty.

Mr. Dubé, we would like to meet with you over this important matter. KPMG has made the recommendations and the WSIB has agreed to them. Injured workers have no place else to turn to for help. We need your office to stand up for injured workers and all persons with disabilities.

Sincerely,



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¹ The Association Between Case Manager Interactions and Serious Mental Illness Following a Physical Workplace Injury or Illness: A Cross-Sectional Analysis of Workers' Compensation Claimants in Ontario