

**Brief To The**  
**EMPLOYMENT STANDARDS CODE**  
**Review Commission**  
**Submitted by Norman Fenwick**

**I am pleased to submit on behalf of non-unionized working people in the province of Manitoba.**

**Many of these issues I believe to be important and pressing.**

**These issues arise from empathy developed through shared experience of employees working together.**

**I would like to thank the Government for undertaking this long overdue review of the Employment Standards Code and for addressing the needs of working people who are vulnerable to the actions of unscrupulous employers.**

I please to submit on behalf of non-unionized working people in the province of Manitoba.

**Labour and Immigration Minister Nancy Allan sets an important framework for the process of this review.**

**Minister Allan made the following Points:**

- **Employment Standards Laws and Regulations have not had a detailed review since the 1970's.**
- **The review will look at increasing flexibility and modernizing PROTECTION, COVERAGE AND COMPLIANCE to reflect the realities of the modern economy, the changing face of today's labour force and the demands on today's families.**
- **Particular interest is focused on the rise of non-traditional employment relations, new technologies, hours of work and overtime provisions, PROTECTING VULNERABLE WORKERS improving work life balance and STRENGTHENING COMPLIANCE.**

**A study of contingent work conducted in 2000 by THE CONTINGENT WORKERS PROJECT documents serious job related stress issues, there are also serious concerns about health and safety issues related to lack of training and proper equipment.**

**Under Ontario law if a person is injured in an accident caused by someone else's negligence or wrong doing and makes a claim for damages or initiates a lawsuit, the Minister of Health can recover its costs for health-care treatment.**

**"The employer is vicariously responsible for the illegal acts (and) negligence" of employees.**

**While working in the manufacturing sector I have recorded and reported to my safety representatives many safety incidents.**

**I have witnessed a general disregard for safety both by employers and employees**

- I have seen stop work orders ignored putting workers at risk of injury.**
- I have heard employers state to Safety and Health dept. representatives "We don't have to listen to you."**
- I have seen forklifts left unattended while they have workers in manlifts suspended up in the air.**
- I have seen forklifts used while having no brakes and no shutoff for the engine.**
- I have recorded that inspections have not been done as required by engineers.**

- I have seen chemicals being sprayed without proper safety equipment used.
- I have seen supervisors refuse to use safety procedures when advised to do so by a safety officer.
- I have seen workers ignored safety rules with impunity.
- I know of workers who have worked more than the allowable hrs. per day.
- I have held a worker's arm up to minimize bleeding after he lost several fingers.
- I have held a worker's bleeding head while waiting for emergency workers to respond.
- I have seen an employer's failure to take action on an employee's bad safety attitude result in a near fatal accident.

I have been told repeatedly by Workplace Safety & Health that they do not have the resources to respond to every complaint and ensure compliance by employers.

At the present time, I am told that accidents are occurring that are not being reported. Workers are leaving work, applying first-aid to themselves away from the workplace and returning to work. This is

**occurring even with head injuries, as workers are told not to report their injuries and they fear losing their jobs if they do.**

**There appear to be no obligation for employers to be reasonable, honest or fair and no protection from harassment or unfounded allegations for workers.**

- One worker was told he no longer had a job by the employer because “We don’t want your type working here.” This employee had been recruited by the employer in the first place.**
- An employer refused to develop a safety plan as required by law.**
- A new hired supervisor has told workers not to report accidents.**

**Some Human Resource Managers do not even follow company policy or generally accepted due process principles.**

**There are no means to rectify the situation when Human Resource Managers are used as hatchet men by employers and these employers deliberately besmirch an employee’s work record.**

**Individual workers face a tremendous financial burden to proceed with any legal steps to prove wrongful dismissal in court.**

- I have witnessed an employer threaten “if you bring in the union you won’t have a job.”**
- I have seen an employer circulate anti-union petitions contributing to a hostile work environment.**
- I have seen employers approach employees in physically aggressive threatening ways with clenched fists held up as a boxer.**

**Witnesses to employer’s abusive actions will not come forward while they have no faith in the ability of courts to protect their rights.**

**Employers have produced two different records of employment indicating two different reasons for separation.**

**Employers thwart attempts by workers to organize and bargain collectively due to the bleak record of enforcement of labour laws.**



**I have been told by Labour Representatives that in meetings with employer lawyers that those lawyers have stated that the employer has give them directives to argue their position “money is no object” they will spend whatever it takes.**

**Employers refuse to honour negotiated agreements, their position appears to be if you don't like it so sue me.**

**Lawsuits are prohibitive to non-union workers due to the cost and time required.**

**Legislation has been passed or introduced under Public Health Act Amendments which includes hiking fines for non-compliance from \$5,000 to \$100,000.**

**The Water Protection Act which took effect New Year's Day had a clause added because of opposition concerns about wording being so vague the Government could ban everyday activities on a whim.**

**Employees without adequate protection and enforcement of regulations are at the whim of the employer's mood.**

**Through rhetoric and perceived credibility employers warp the perception of what accountability is.**

**Allegiance to autocratic power allows managers to foster a poor attitude toward workers. Dishonesty, hypocrisy and deceit become the hallmark of the business community.**

**A prominent business leader recently stated in the newspaper that he does not consider education important and that he does what he wants and has no regard for what is expected.**

**This seems to reinforce the attitude that workers are disposable so treat them any way you choose and disregard rules and regulations.**

**Employers disregard safety laws, fabricate claims against workers, disregard laws concerning making false statements to E.I. and use threats and intimidation to control workers seeking to exercise their rights.**

**Protection for workers needs to be entrenched in legislation and to be backed up by legal sources paid for by the government for non frivolous complaints.**

**Employers must not be allowed to buy their way around the legislation enacted to prevent exploitation of employee's. Multi-National corporations with large financial assets should not be able to create third world working condition in Manitoba.**

- We need a civilizing structure upholding the integrity of information. Accountability is vital to reform.**
- We need an Initiative for Accountability Act and investigations triggered by anonymous and third party complaints.**
- We need a compliance officer in the work place answering to the Government paid for by the employer for business X amount of employees and roving compliance officer for all others.**

**One of the provisions that should be included in the Employment Standards Code is the requirement of demonstrable just cause for termination, these provisions exist in some jurisdictions in Canada but not in Manitoba.**

**A document as important as the Employment Standards Code should be in the hands of all working people in Manitoba and it should be written in plain**

**language, these documents should be posted throughout the workplace.**

**A wise person once told me that we cannot legislate morality. This should not stop us from proposing safeguards while creating a socioeconomic entity where entrepreneurs can thrive and workers rights can be respected.**

**Thank you for taking the time to read this submission.  
It is my hope that I have given some enlightenment  
from a workers observation as to what is happening in  
the work place in Manitoba.**

**Should you have any questions please contact me at:**

**Norman Fenwick**