

**WORKERS' COMPENSATION ACT REVIEW
Public Consultation**

**Tr'ondëk Hwëch'in Conference Room
Dawson City, Yukon
May 29, 2006**

PANEL:	Patrick Rouble	Chair
	Ivan Dechkoff	Member
	Michael Travill	Member
PRESENT:	June Mather	Bonanza Market
	Edith Robinson	Tr'ondëk Hwëch'in
	Mark Hill	YWCHSB
	Sidney Maddison	YWCHSB

(The meeting was called to order at 6:30 p.m.)

Mr. Rouble: Okay, folks, if we could come to order, please. I think everybody knows me, but I'll just go through a bit of an introduction to set the stage for this evening's meeting.

My name is Patrick Rouble; I'm the Chair of the *Workers' Compensation Act* Review Panel. With me are Mr. Ivan Dechkoff and Mr. Mike Travill.

In addition to my role as Chair of this act review, I am also the MLA from the beautiful Southern Lakes, and I sit as the Deputy Speaker of the Yukon Legislative Assembly. Mr. Dechkoff, in addition to his professional career, has been a past Board member of Yukon Workers' Compensation Health and Safety Board; and a past Employers' Consultant. To my other side is Mr. Mike Travill, who, in addition to his professional career, has been involved in senior positions with various labour organizations, and is currently employed as the Workers' Advocate. I should add, too, that, when Mr. Travill is working on the act review, he takes a leave of absence from his employment situation.

The Panel has been tasked with identifying issues and concerns with the current Act, and with making recommendations to the minister responsible on how to amend the legislation in order to best serve the needs of all stakeholders. We are empowered to consult with stakeholders, review existing information, review other jurisdictions' legislation, and contract additional research. Really, we're empowered to do whatever it takes to find good information for us to make our recommendations to the minister on how to amend the legislation.

We are committed to following a process that is inclusive, open and fair, and one that will ultimately result in recommendations that will ensure the *Workers'*

Compensation Act continues to meet the needs of all stakeholders to the greatest extent possible. Additionally, we are also committed to ensuring that it is consistent with the principles behind Workers' Compensation.

Section 105 of the current Act called for the minister to initiate a review no later than January 1st, 2003. Following the General Election of November, 2002, this Panel was appointed in December, 2002.

The Panel developed a process to conduct the review. It began with the identification of issues, including issues mandated in the previous Act that were to be brought forward. The Panel put together this document and released it as the beginning. It included the issues included in the Act to be reviewed; issues brought forward by the Auditor General; and issues that the Panel had come up with. We then asked stakeholders and other interested parties to put forward their comments and their issues, and that came up with this document; the list of issues brought forward.

As we wanted to get a lot of comments and various different perspectives on all of the issues, we narrowed it down to 88 issues at that point, and took that list back out to stakeholders and said, Please provide us with your thoughts and comments on all of the issues. So it gave people an opportunity to comment on issues that had been raised by others. That created this document, which was a compilation of all the various thoughts, comments and positions on the 88 issues identified for review.

The Panel then went to work with a consultant, a recognized expert in Canadian Workers' Compensation, and we developed the latest document, "Options for Legislative Changes to Yukon's Workers' Compensation Act." This includes a look at each of the 88 issues, and options for changing the legislation in order to amend that issue.

We are now seeking your feedback, the communities' feedback, and stakeholders' feedback, on these issues. We'd like to hear whether or not people feel that it is an issue, in other words an issue that should be changed by a change in the legislation; and, if one of the options that we have identified does a good job of addressing the change that's required. We'd also like to hear if there are other ways of changing the legislation to better address the issue that has been identified.

Once we have received comments from stakeholders and other interested parties, the Panel will then sit down this summer and, along with conducting other research and other investigations, the Panel will then make its recommendations to the minister on how the legislation should be changed.

To date, we have received comments from various stakeholders and other interested parties. Five public meetings have been held in Whitehorse, and four

meetings with the Stakeholder Advisory Group. In addition to the public meetings, which we have one here in Dawson tonight, we'll be in Haines Junction tomorrow night, and Watson Lake on Wednesday night. In addition to receiving input through the public meetings, we are also accepting written input that can be made to the Panel by June 15th. That is the deadline for stakeholders and other interested parties to put in their written submissions to us.

As I mentioned at the beginning, we are committed to coming up with changes to the legislation that will ensure that the Workers' Compensation Act continues to meet the needs of all Yukoners and all stakeholders to the greatest extent possible. Also, to insure an open and transparent process, all of the meetings that we've held so far, and all of the input that we have received, is available to the public. The meeting tonight is being transcribed by Mr. Doug Ayers, and the comments from tonight's meeting will be posted on our website, as are the comments of all of our previous meetings; they're already available on the website.

Our role is to review the legislation, and specifically to review the *Workers' Compensation Act*. Unfortunately, we can't address individual claims situations; we can only make recommendations on how the legislation should be changed for the future.

Also, we are not representatives of the Board, and we can't speak on their behalf. There might be questions or concerns that you might have about the system... it's our role to review the Act and, unfortunately, we can't speak on behalf of WCB and might not be the best ones to answer those questions.

So, with those comments being said... Ivan, have I missed anything?

Mr. Dechkoff: No.

Mr. Rouble: Mike?

Mr. Travill: No.

Mr. Rouble: Our role, tonight, is to come to beautiful Dawson City, and hear what Dawsonites think about changing the *Workers' Compensation Act*. We're also open to hearing some of the other issues that you might have. I think we'll just turn it over to June.

Ms Mather: Well, after listening to what you just had to say, I don't really have anything to say, because I don't see what I have to say is going to change anything, to be honest with you.

As an employer and as an employee, we have very few claims but, when we do have a claim, there are issues that have arrived, and I know you can't answer

them, but I am concerned about as an employer and as an employee. I don't know if you want to hear them, but number one is, who are you working for? And I, personally, feel that there isn't a say, you don't have a say, you just – a "say" as far as, you phone in a claim, and they decide yes or no. You have an injured party, whether it's you or an employee, and you actually don't – you know, it's their decision whether it goes through or not. They have the final say, and I don't think that's necessarily fair.

Because I've seen situations where we've had employees actually – well, one employee, actually, we didn't even know he was hurt, and got money; and the next person got hurt on the job, very specifically, and didn't get it.

So, some questions, like, who is deciding? Who actually is deciding who gets it?

Another part that bothers me is, who decides how much you pay as an employer? I mean, we have had Workers' Compensation come in, review our stuff, and say, as an employer, you're paying this, and there's no buts or nothing. Like, this is what you're paying. And, who do you go to, to talk about it; to say, "No, I haven't had a paycheque in six years, I'm building my business back, and this is what I take"? And they say, "No, I know what you do, this is what you pay", and that's it. Like, you have no person to go to, to argue about that person that comes in to your office, and you pay or else, and that's it.

And then, when you get hurt, whatever they decide is what you pay.

Another thing is, when a person does get hurt, they change their mind. "Yes, you're covered." "No, you're not." "Yes, you are." "No, you're not." "Who authorized this?" And, if it's a large claim, it seems you don't get nothing; and, if it's a small claim, you get paid out. And that's what we've seen in the past.

A lot of abuse, verbal abuse. "Who says you're sick?" "Who said you need crutches?" "Who says you need a wheelchair?" "Who says you should have time off work?" Like, they speak to you in a very poor tone. I wouldn't talk to an employee like that. There's no respect there. And we have seen that over several times in the last 26 years; several, several times. And it's not right, as there should be more respect.

Who do they think pays their wages? We do. We pay these fees, and they don't seem to respect you, at first as a patient, or somebody who has been hurt. And it's employees that have made these comments, also, and you hear it in the community, that there's a lot of verbal abuse.

They also sneak into town and they go and talk to other people. They talk to – "Oh, well, what were they doing?" You know, they get the report, but they don't believe the report. They're doing their own investigation behind your back, and they're making people feel like they're criminals.

If they don't believe the employers, and they don't believe the people who are writing the reports, and they only make up their own mind, where do we stand, as the person that's being hurt? You know, there must be an excuse for it, you know. And there always seems to be, "Well, he shouldn't have been doing this", or whatever.

And one other issue that we have a hard time, is that nobody – I mean, you're taping this, but, when you go through your system, you're under oath, and they tell you you're under oath, but then, when they come back with the verdict, there's no one that says – oh, so you go back and you say, "Well, do you have a tape of it, because I'm sure I didn't say that?" "No, we don't." "Well, do you have it in short writing, or did anybody take notes?" And nobody's taken notes. So, it's one word against the other, still, and I don't think that's right. I think that it should be taped when it goes to that level, so that they can come back and say, "Yes, you've said that", "No, you haven't."

I mean, I've heard this on two or three different occasions. And I think that, if you're under oath and you're on a conference call, and you're in your second or third last stage of the investigation, it should be taped. It shouldn't be, well, they've decided and that's it.

Mr. Rouble:
Compensation Act Review?

Hi, are you looking for the *Workers'*

Ms Robinson:
public meeting, isn't it?

Yeah, I was downstairs in the hall. It's a

Mr. Rouble:

Yes, it is.

Ms Robinson:
but I thought I'd sit in.

Well, I don't have any real questions,

Ms Mather:

So those were some questions I had as an employer through the years. They tell you when you're sick and when you're not, and when you have to go to the doctor and when you don't. I think that a lot of it is, when you've been hurt, you're under medication, you're in the hospital, you're not all coherent.

And the verbal abuse and the – and it is verbal abuse. I mean, I've heard it in different incidents, and it's shocking, what comes out. And I know you can't answer that, and I know I can't say, well, in this case... but I definitely think that we should be looking more into what qualifications these people have, to give these decisions.

Mr. Rouble: Thank you for your comments. We appreciate hearing them. It's certainly valuable for us to hear any comments like this coming from someone that's been on both sides of the system.

If we were to try to group your comments into some of the categories, some of what I was hearing was, there were issues with lack of communication, lack of understanding with how the system worked; is that fair?

Ms Mather: Yes and no. I don't think it's lack of communication; I think it's lack of power. And I think the power is all one side, and you're at their mercy, to be honest with you, as an employer and as an employee. And I don't think that it's fair. Because the final decision is really – I mean, you have to fight tooth and nails for every step of the way, and you're the one that's been hurt, or your employee has been hurt, and they're the ones that are suffering. They're the ones that –

You know, a lot of people just give up and try to go back to work with their injuries and, as an employer, you're trying to deal with that. And I don't think it's fair. I think that you're paying into it, and they're paying into it, and they definitely got hurt at work, and that they should be covered. There shouldn't be any questions and any investigation, unless it's a repeat. I know there are people who are dishonest and whatnot. But if that person has never had a claim, and never has had problems or – and most of our employees have never, you know; and most employees have never. But they're treated so poorly and so disrespectfully, you know, it's sad.

Mr. Rouble: Any thoughts on how the system could be changed to alleviate some of those issues?

Ms Mather: Well, like you say, in a sense, more communication, but definitely – I mean, as an employer I don't even know why we pay this, to be honest. Because, how many employers actually get hurt and get Workers' Compensation? I don't think very many. I think most of them are turned down, for one reason or another... or even employees. But when do your hours start, and when do your hours end? Do you know? Like, I mean, as an employer, you're all over town, you're all over – you know, you might be going to Whitehorse, you might be trying out a vehicle, you might be planting a garden. Like tonight, I mean, I was working and planting flowers around the store. Now, I started at 6:00 o'clock this morning, and I'm still trying to work. Now, what if I got hurt tonight; would I be covered? When are you covered, and when are you not?

So, there's a lot of grey areas that I don't think people know until they actually get hurt. And then, when they do get hurt, then there's such a question whether you're going to get covered or not. Or maybe you're covered, and then they take it away. I've seen that happen. Where, yes, you're covered; and then you're not

covered. And then they send somebody from wherever, and they're investigating you. And, you know, it's just crazy.

I mean, you spend more money investigating an actual claim, than what it would cost to pay the claim. And I've seen that. And I just question, why are we wasting our money doing that? Why not help the employer or – not the employer, but the employee, you know, get better? If the employer says, yes, they were hurt at work, and they have witnesses, then that should be good enough. They shouldn't be sending people from somewhere else, questioning everybody in town, to where the accident actually happened. It's just crazy.

Mr. Rouble: One of the things the Act calls for is the publication of an annual report, which I think would answer a lot of the questions that you have. I believe the Board makes it available on line.

Ms Maddison: You bet.

Mr. Rouble: And it is available in paper form, as well. If that was more easily accessible, would that be something that would answer some of your questions, do you think?

Ms Mather: It could. But, you know what, I mean, as an employer/employee, I mean, we work mega hours just to survive. We don't have time to – like, everybody says, Oh, go on line, do this on line, do that... you don't have time. I mean, by the time you start your day, and get your business – and I'm sure we're not alone, you know. You've got higher costs, less employees, less people wanting to work, so you're doing more and more. How do you keep track of all this? Like, it's pretty hard.

It should be pretty cut and dry; either you're covered or you're not. You pay into it and, if the employer says that they were hurt at work, and it was work-related, there shouldn't be any questions. There shouldn't be any, "Yes, you're covered/no, you're not." It happened, you know, tripping down the front of the stairs, or whatever, you know. Like, it's just stupid. Some of this is just – you know, "Who authorized you to get crutches?" That was one issue. And the poor man had a broken ankle. And "Who authorized you to get medication?" Well, the doctors; they won't let you out of the hospital. Like, it's just petty, and it's really upsetting a lot of people.

Mr. Rouble: The Board of Directors is made up of equal representations of employers and employees, that are there, looking out for the betterment of the system, insuring the needs of employers and employees are being addressed. Do you think there's a way of changing that, or looking at the governance, to get some of these issues changed or addressed or looked at?

Ms Mather: I don't know. I still think it's who you know. I'm sorry, but.... I don't know what the answer to that is. But I really feel that we've got to look more at the best interest of the employees, or the person that's hurt, whoever they are. Because I think there are a lot of people out there that have been hurt and shafted, and they're really put out. I mean, we had one man who hurt his back... he went and got \$2,000, and we didn't even know he hurt his back. I can't figure that out. How in the heck did that happen? Why didn't we have to fill out our forms?

Anyways, he got it. And the next guy, next lady, actually, had an accident some years later, and it was a big to-do. And we were all there, the ambulance was called, and it was a big to-do. Like, I don't understand how one injury could get one thing, and one injury, when everybody's there and the forms were filled, can't.

I had somebody, actually, that phoned from Workers' Compensation, a doctor, and said I had an employee that had some kind of tunnel – on her arm, because she was working too much at the till. Now, she never said to me that she had problems, she never said she was going to Whitehorse and had a problem. Like, then they phoned and asked me if this lady ever complained. I said, no, like, I never knew anything about it. So, I mean, that was taken care of quite quickly and quite easily, but that was very minor. But, when it's a bigger accident, then everybody wants to put their head in the sand, and nobody wants to pay that employee. And I don't think that's right.

All the little claims get paid, or get kind of taken care of, it seems; like, you know, if you hurt your back, and it's only for a few weeks. But if you break an arm or whatever, and it's more long-term, then I don't hear of anybody really getting too much help. Or, at least, you know, in our situation. We haven't had a lot, so obviously we're pretty careful, but, what I've seen, it's not been nice.

Mr. Rouble: Mike, you just raised some points with me.

Mr. Travill: Well, I was listening to some of the things that you were saying, and some of the areas we had looked at within the Act, and that we have in this document, that we deal with it... you had mentioned that the Board doesn't listen when people talk to them, or somebody's rude. One of the issues that we have under appeals, and process for legal and policy issues, is a process where people could lodge an administrative complaint, to sort of like an ombudsman or something like that, where, if you felt aggrieved –

Ms Mather: I think that had been looked at, but you also got to remember, when that person is injured, and on medication, the last thing they – they haven't got the energy to fight. And I think that's sad, that we have to go through all this legal realm, instead of trying to get that person better.

You know, like, that's what the money is there for; is to help that person recover, to go back to work.

I mean, when you've got to fight for every – for a crutch, or for medication, or for whatever, like, no wonder people just throw up their hands and give up, and go back still injured. And then who really takes them back is the employers, and they've already paid once for this, and now they have to pay again because they've got a crippled employee, that they really feel bad that they got hurt at work, even if it's not their fault, so you deal with that injured employee. And that's not right, because we pay big money for this.

Mr. Travill: Well, then another area that we had within the document is the Worker Advocate, for doing more education and more assistance to the workers, as well. And then we'd also talked about having an Employer Consultant, which then would help in that other area that you'd talked about, where, on the assessments, you had nobody to turn to or nobody to help explain what the assessments were and things like that. Is that something you were looking towards, is somebody to help you in that process as well?

Ms Mather: Yeah.

Mr. Travill: Yes. Because, like I say, we have that as number 38 in the issues, you know, where the Employer Consultant used to go out and –

Ms Mather: Well, we need more; like a help line or something, that we can – because, until you get hurt, I mean, it's not something that you think of. I mean, really, you don't. It's like having car insurance, and then, when you actually get into an accident, you realize this isn't covered, that's not covered. And it all happened at work, and you're thinking, well, I should be covered, and nine out of ten times you're not, because they find some loophole.

Mr. Dechkoff: Do you believe that should be independent of the actual Board, itself, so you have independent advice?

Ms Mather: Yes. But I think we need more, because I don't see that there's enough help. And it drags on, it drags on, and then that actual person gets tired, and maybe even gets better, and then just says "To hell with it." But that's not right, because we've already paid big dollars for a long time. I mean, we've been in business 26 years, and I think, really, to be honest with you, we had one big claim and it was turned down...which was crazy, but... that's my opinion. But we've had a few little ones, but a lot of people have just given up, too.

I know there are people that misuse the system, for sure, but I think if the employer is there and has seen it, or a witness has seen it, then that should be

good enough. I think that sending these people in, and asking everybody in town, “Well, did you see them out? Did they do this...” That’s wrong. I mean, it’s disgraceful, really. I mean, it’s taking their credibility away. And, face it, if they haven’t got claims before – you know, if they’ve got repeated claims, then I would question it. But, I mean, if you catch an employee – you know, as an employer, you know if they’re lying or not.

Sometimes, I just don’t feel that this is really working for us.

Mr. Dechkoff: Are you aware that there’s a process for employers to actually appeal or assist workers through the system?

Ms Mather: Through the Workers’ Advocate, like, is that –

Mr. Dechkoff: Through the Workers’ Advocate or through the appeal process or –

Ms Mather: Yes, and one of our employees did go through that. It’s slow; their hands are tied. But, also, it wasn’t taped, apparently, and the person came back and said, well, that’s not what we said. And it was a telephone conversation, and it wasn’t taped, and nobody even had notes, so... who’s telling the truth? And that decision is up to the head of the Board. And I think it should be taped because, then, it’s there, black and white; you know exactly what has been said. When it gets to that level, it should be taped.

Mr. Travill: Yes, at the final level, it is.

Ms Mather: Yeah, yeah, there’s certain levels that – you first start with the – you know. But we’ve had two employees that have had “Yes, you’re covered”, and even received cheques, and then said “No, you’re not.” Well, that’s really not fair. Either you are, or you’re not. Obviously, they’re in the hospital, I mean, they’ve been hurt. So I don’t know where the answer is.

Mr. Rouble: At the beginning, we introduced a little bit about what the Panel has done, and where the Panel is at right now. The Panel has been looking at the *Workers’ Compensation Act* for a couple of years now. We’ve gone out to stakeholders and discussed and identified the different issues that have been raised. We’ve come forward with a document, now, called “Options for Legislative Changes...” to the Act. Now we’re trying to get some additional feedback. I’m not sure if you’ve had a chance to take a look at the document or –

Ms Robinson: No, I haven’t. I was hoping to pick one up here, now.

Mr. Rouble: You probably gathered, too, that we're transcribing the comments made at tonight's meeting, and they'll be posted on our website. We do that to create an open and transparent process, so that not everyone has to attend every meeting, and so that different people can see the different perspectives on different issues.

Ms Robinson: This panel... who makes up the Panel?

Mr. Rouble: The Panel includes myself; my name's Patrick Rouble, I'm the MLA for Southern Lakes. We have Mike Travill; he's got extensive experience in working with labour organizations and, when he's not working on the Act Review, he's the Workers' Advocate. Also on the Panel is Mr. Ivan Dechkoff; he's a past Board member, and a past Employers' Consultant. And we were appointed by the Minister of Health and Social Services, who's responsible for Workers' Compensation, as the Act called for a review to take place.

So, we're separate from Workers' Compensation Health and Safety Board; we're not part of the Board and we can't speak on their behalf.

Were there any other issues that you wanted to bring forward?

Ms Mather: No, I think those were the main ones.

Mr. Rouble: We have heard comments that have raised those issues, and I think if you take a look at –

Ms Mather: I'm going to take this home, yes.

Mr. Rouble: If you'd like to make comments to us on the issues that have been identified in the options for changing the Act, comments can be either phoned in to our telephone number, on our voice mail; or sent by an e-mail or fax or in writing; and the deadline for comments is June 15th.

Ms Mather: Okay.

Mr. Travill: And we will take the comments, that we've heard today, and fit it into where we believe you were talking about within the documents that we have. We heard some things that we can fit the comments into particular areas, and we can use it in our discussions surrounding that.

Mr. Rouble: Are there any general comments or general issues you'd like to raise?

Ms Robinson: No.

Mr. Rouble: Sorry to put you on the spot, but it's a challenge when you have only a couple folks come out to a public meeting.

Ms Robinson: I was just here more or less for the information gathering. I haven't been involved, I haven't followed the process, I just saw it in the paper the other day and I thought, really, I should come into this because there might be some things that apply to us, you know.

Mr. Rouble: Do you have access to the Internet?

Ms Robinson: Yes.

Mr. Rouble: On our website, you'll see all of the documents we have produced so far, from our first document, that outlined the issues that we were legislated to bring forward, issues identified by the Auditor General, and issues that the Panel had brought out. We then received additional issues from stakeholders and other interested parties; and then we received issues and comments on all of the issues that have been brought forward.

That then led us to the latest document, which was options for addressing the issues that were brought forward by stakeholders and other interested parties, and looking at how do we change the legislation in order to best serve the needs of all Yukoners.

Ms Robinson: So these options, then, once you present this, this goes back to –

Mr. Rouble: To the Panel.

Ms Robinson: You guys have been part of the development of these options; do you, as the Panel, present it back to –

Mr. Rouble: We'll provide recommendations to the minister, as to how to make some changes to the legislation.

Ms Robinson: Based on the options that have come out.

Mr. Rouble: Based on the options that we've identified, and then other input that stakeholders and other interested parties come forward with, and other research that the Panel does on looking at these issues.

The easiest way to find our web page is to go to the Territorial Government home page, www.gov.yk.ca, and there's a link right on that page, on that home page, to the Panel's website.

Mr. Travill: And, also, the WCB website has a link right to it, so that one is www.wcb.yk.ca, and then it's on the left column. That's how I always get to it.

Ms Mather: Maybe you should have one employer on the panel that had to have Workers' Compensation.

Ms Maddison: An injured worker/employer?

Ms Mather: Yes. No, really, seriously. Because, once they've been through the system, they have a different outlook. And I think that's what you should have, is somebody who has been through the system, and maybe somebody not necessarily always from Whitehorse, and you'd get a different outlook.

Mr. Dechkoff: Are you saying on the Panel, or on the Board of Directors?

Ms Mather: On the Board of Directors; the ones that make the decision whether they get it or not. I don't know if you do, but maybe, sometimes, when you sit in the other person's shoes, it opens your eyes. You really see that, man, I've been there, I've had that happen, and I know what that person's going through, or has gone through.

Mr. Travill: So, in the criteria, looking at the Board of Directors, having somebody that's an injured worker, but then also having somebody that's from the communities?

Ms Mather: Yes. Not necessarily always from Whitehorse; like, maybe somebody that can –

Mr. Travill: Because that's one of the things we're looking at, is, what people think the makeup of the Board should be. Right now, there's two individuals representing employers, two people representing workers, and then the independent chair and the independent alternate chair.

Ms Mather: And, so, when does this Board meet, and how do you get on it? Like, how are they picked?

Mr. Travill: The minister selects them, in consultation with the organization. So, for the employer reps, they're chosen in consultation with the employer groups; and, with the workers, it's the same with

worker groups. So, generally what happens is this: as positions come up, the minister gets people nominated from whichever side it is, and then, based on that, they select. So there is a process whereby –

Ms Mather: There is a process, okay.

Mr. Travill: -- the minister does the selection.

Mr. Dechkoff: You'll also find, in one of the options here, it was recommended by the Auditor General that perhaps there should be public representation on the Board of Directors, as well –

Ms Mather: M-hmm, I think so.

Mr. Dechkoff: -- that are independent of either employers or workers. And that's one of the options in there as well.

Ms Mather: And I think, too, like from what we have experienced, you kind of wonder, even with Workers' Compensation, but also Workers' –

Mr. Dechkoff: Occupational Health and Safety?

Ms Mather: No, no, the other one, when you – Labour Standards. Like, the people that actually work there, what qualifications they have. Because we've come into situations where you find that they're not as qualified as they should be, to make the decisions that they are making. Because it affects the people big time. I mean, pay for lawyers, and to – and we've been in that situation, ourselves, only three times in 26 years, and every time it was with one person, and then we find out she wasn't really – I mean, the qualifications weren't there. And we actually won all three. But the stress that was put on us, and everything, it was just crazy... and the money we spent fighting it. And then it turned out that we won it, but it really wasn't fair.

So you really need to look at the qualifications of the people that are actually talking to the people that have been injured. And how they talk to them... that's a big issue. Because I've heard, and we've had experience, very much verbal confrontations when you're injured. It's not fair. In some situations, people are very hurt, very severe, and they don't need that; they don't need to be worrying about if they're going to get paid or whatever. It's just too stressful.

When somebody gets hurt at work, like, everybody's so quick to point whose fault it is. I mean, whether the person tripped, or whether there's something there, accidentally left there, you know, everybody's so quick to judge, instead of really looking after that person. And I don't think there's enough of that. It's like nobody wants to take any responsibility. And I think that they have to.

And, do you have to pay? Do you have to pay, as an employer? That was the big question. If you just decide that you don't want to go on Workers' Compensation, do you have to pay? Like, can you waiver your right? Why not?

Mr. Dechkoff: It's part of the Act; basically all employers, where they have workers –

Ms Mather: But then they should be covered if it happens at work. If it happens on your land, and it happens at work –

Mr. Dechkoff: Are you talking as an employer, are you covered; or as an employee?

Ms Mather: As an employer.

Mr. Dechkoff: As an employer.

Ms Mather: Yeah, as an employer. If you're an employer, why do you have to pay?

Mr. Dechkoff: As an individual, or as –

Ms Mather: Well, you double, kind of, pay twice, don't you? As an employer, you pay, and then you pay, like, to cover yourself, as an employee. Yes, you do, there's two –

Mr. Dechkoff: No.

Ms Mather: You pay a higher rate, though.

Mr. Dechkoff: Like, if you're a sole proprietor, you have an option to get WCB coverage; but if you have employees, as an employer, you're required to –

Ms Mather: No, but as an employer, you have to, though; you don't have that choice.

Mr. Dechkoff: No, as an employer, you have to cover your employees, that's correct.

Ms Mather: And yourself. And yourself, is what I'm saying.

Mr. Dechkoff: No.

Ms Mather: Yes, you do.

Mr. Hill: If you're incorporated. If you're not incorporated, then it's optional for yourself.

Ms Maddison: For you, as an employer.

Ms Mather: But what if you don't want to? What if you say, Okay, I waiver that right; I don't want to pay, because I won't ever claim?

Mr. Travill: Well, actually, where we are with the Act is, what we want to do is hear whether that would be something that you'd like to see.

Ms Mather: I'd like to see that.

Mr. Travill: Rather than discussing where we were, we –

Ms Mather: But our chances of ever getting covered, I don't see... to be honest with you. Because there's always an excuse, because where do you start your day, and where do you end it? And what job do you have, and what job –

Ms Robinson: So you mean to say that, as the employer, if you and your husband were injured at work, because you're the employer, you wouldn't be covered under the WCB?

Ms Mather: Well, I mean, yeah and no. Like, how do I put this?

Mr. Travill: Well, it's sort of two separate things. The difficulty always becomes determining whether it happened at work.

Ms Mather: Whether you were on your land; what hours you were working; is that the job you normally do. But a lot of us are very multi-tasked; we have to be. So they always seem to find some loophole to say, "Oh, well, that's not part of your job."

Mr. Travill: And that's the difficulty of the situation. And because it's only for work-related injuries, the Board has to decide that. So it becomes very complex for employers. When they're the sole proprietors or the directors of the company, it makes it very, very difficult.

Ms Mather: Do you understand what I'm trying to say? Maybe I'm not explaining this right.

Mr. Travill: No, no, you are. And, like I say, I think your position was that, in that situation, we should look at amending the Act to allow people to not have to pay for the coverage.

Ms Mather: Yes.

Mr. Travill: And I think we've heard that, and I think that's where we are with that.

Ms Robinson: I don't understand. What did you just say?

Mr. Travill: Well, right now, the Act is – we're reviewing it. So the Act could be anything that the people want. So, we're saying what we've heard is that, because of the situations that arise, and the difficulties in determining it, that she would like us to look at having it so that those people are excluded from compensation.

Ms Robinson: Who's "those people"?

Mr. Travill: The employers and directors.

Ms Mather: The employers. So, if I decide, or my husband decides, okay, well, we don't want to pay because –

Ms Robinson: For yourselves.

Ms Mather: For ourselves. Not for the employees; the employees have to be covered. They have to be. But for ourselves, because we work so long hours, and you could be at work in many different – you can be making a delivery down the road; are you covered? You could be test driving a vehicle; are you covered? You could be looking at property, and fall off a cliff when you're looking at this property to buy for your business; are you covered? The chances are, they're going to find an excuse to say no, you know. So you should have that option, to say I want to pay, or not.

Mr. Travill: And that's the thing, is, the legislation can be flexible enough to say all kinds of things.

Ms Mather: And then not telling you how much you have to pay. Because that's exactly what happened in our situation. Because my husband didn't take wages for a long period of time, because we were rebuilding a business, and they came in and they said, You have to pay this. He

says, I know you do this, and I know you do that, and you have to pay this rate. Even though my husband proved that he wasn't making wages, they said he had to pay for this amount of wages.

And, like who are they to say you're making 30,000 or 60,000? Like, they just decide what you're going to pay as a rate. And I don't think that's right.

And my husband said, Well, I don't want to pay anything. And he said, Well, you can't do that.

So, it's almost like you're – you are; you are forced. You are forced. And then, when you get hurt at work, then, are you covered, or are you not covered? There's a big question mark there.

Mr. Rouble: So, what I'm hearing is a couple of different issues. One is, how is it identified as to whether or not the injury was employment-related or not; and then the other issue is whether or not employers should be able to opt out of the system altogether.

Ms Mather: M-hmm.

Mr. Rouble: Is that a fair assessment of the two –

Ms Mather: Yeah, yeah, yeah. You're wording it much better than I am.

Mr. Dechkoff: Did you also say you would like to know on what basis your assessments are being levied?

Ms Mather: Yes.

Mr. Dechkoff: And how they come about the amount that you're levied?

Ms Mather: Yes.

Mr. Dechkoff: Not just on the dollar amount, but how they arrive at your assessment rates?

Ms Mather: M-hmm.

Mr. Dechkoff: More background information on that?

Ms Mather: More, yeah. You shouldn't be told that this is what he figures. Because the guy happened to know us, and he says, Well, I think this is what you should pay, and this is what you pay, and we had to

pay it. I mean, you could prove by your accounts that you weren't taking money, and that should be sufficient enough. You have no rights; you have no rights as an employer. It doesn't feel like you have a right.

That might be a unique situation, I don't know, but, I mean, there's got to be more people out there that don't always take wages. I mean, I work mega hours, I only get paid for 40 hours a week. I don't get paid overtime. But I might work 70 hours one week, and 40 hours the next, so, the week that I work the extra 30, am I covered or am I not?

Mr. Rouble: And that's going to be a challenge, too, in identifying the earnings or the amount that the person benefited from that employment situation. Because, as you said, you were building your business, so you could look at it and say, well, in this year, our business went from being in the hole to, two years later, our business is worth \$200,000. Does that mean you've got a \$100,000 a year increase in equity; does that translate into that's how much money you would have made?

So that's where I can see a challenge being; in assessing people when they're growing a business.

Ms Mather: And everybody starts somewhere in a business. Everybody starts on the bottom, and works up. You start out with nothing, and hopefully you build.

Mr. Rouble: And you're building it, expecting a future return, because you're investing in your business and you hope to reap that investment in the future. You're not necessarily taking the money out of the business now, but you expect to do that down the road.

Ms Mather: And it's ironic, because, a few years later, my husband did take a wage, and higher than what he was told he had to pay, and then, when he got hurt, he was not given –

Mr. Rouble: Compensation.

Ms Mather: He got compensation on a lower wage, and not on the wage that he had been taking out in the last two years. Now, figure if that's fair. It's not. And so, there, who decides that?

Mr. Travill: Well, that's a little different, because that gets into the technicalities of the individual's own claim. But I think the larger issue is the ability to be in the process, or outside of the process.

Ms Mather: It is the own claim, but what it stems from is the initial – what's fair. Because, when he was in the lower wage, and a

lot of people start – but when you get – you know, like, he had to pay more – as his wage went up, he had to pay more. Like, everybody pays more. So, what is fair? Who really got wronged there?

And I'm not just speaking for one person, I'm speaking for all employers; that there's got to be a better system for them. That, as their wage goes up, and if they get hurt, then –

Mr. Dechkoff: I think what I'm hearing you say, and correct me if I'm wrong, is that, throughout the process, employers really don't understand the system, and no one's educating you as to what your rights and responsibilities are, and what your entitlements are, and what avenues you have, should you have any disputes.

Ms Mather: I think so much is really focused on the employee, and not really on the employer. Do you know what I mean? Like, you're right. But there's got to be some employers who get hurt in some time of their life of working, of some sort. You know, whether they just break a thumb or whatever, they've got to have some kind – but how many people actually end up getting a claim... I have no idea. But it would be interesting to find out how many people actually end up getting... and was it approved? That would be my biggest question; how many people actually ended up getting approved? Because I think there's too many loopholes.

Mr. Rouble: You raise some really good points, and thank you for your input and participation in the --

Ms Mather: Well, I don't know, I just work in the bakery. I mean, I don't even work in the office. But, I mean, these are things that, through the years, we have experienced, and I think that they're valid because they come from the heart, you know, of the worker. I don't think that there's a lot of people that, really, to be honest, cheat when they get hurt, because they're actually hurt, and it's pretty devastating. And, face it, the doctors could tell. I mean, you go to a doctor, he can tell if you've hurt your back or not, or you broke your leg or not, you know. So, I mean, it's pretty hard to – is this claim valid or not... like, I just have a hard time understanding how many claims actually get turned down. Or, maybe not turned down, but such a fight about getting it. There shouldn't be a fight about getting it. Either you get it or you don't. They shouldn't put those people under duress, even for a little while. It should be yes, you are covered from pretty well day one; not, yes, you're covered/no, you're not.

Or "You didn't have the papers filled out right." Well, a lot of times, if they've really hurt themselves, they're not mentally capable of filling out the papers, because, you know, they're hurt, or they're full of morphine or whatever. And I don't think that part is really looked at; that they've got to back off a bit, and let

the person, that's hurt, kind of have at least a week or so to get – you know, depending on the injury.

You have to have your forms filled out right away. Well, how many people think of that when they've been hauled to the hospital in an ambulance? You know, you don't.

And I know, as an employer, I find that we don't always have the paper. We should be sent the papers maybe on a more regular basis, or maybe we should – you know what I mean? Like, those forms are not always available. So I find that's frustrating, because, to be honest with you, we probably have filed some forms but, you know, we don't need them every couple of – it's not something that you need every month or every year, even, and then you're going, Oh, my God, what do I do now? I can't remember. So, it's hard. It's hard even on the employee.

And when an accident happens at work, it doesn't matter – like, we had one lady who fell off the dock. I mean, she was okay, but she had a few stitches, and we had to call an ambulance, and she hit her head and... I mean, we were all – all the employees were distraught, you know, for a few days, so you're not thinking clearly. So it's hard. Because, in a small place, they become part of your family, and so it can be very distraughting. And I don't see a lot of leeway there for it.

Mr. Rouble: Folks, we did pick up a couple large containers of coffee, and we can't leave until it's all consumed. So, before we switch over into coffee drinking mode, I just want to make sure that everyone's had an opportunity to put forward their issues and comments.

Ms Mather: I think I've said enough. Thank you.

Ms Robinson: And I don't have any issues, I'm just here, information gathering.

Mr. Rouble: Okay. Well, is there anyone else who would like to make a comment before we close?

Okay. Well, I'd like to thank you very much for your participation, and just remind you folks that, if you would like to provide an additional comment to the Panel, the contact information, our web address and telephone number and mailing address, is in the document; or you can find it on line. The deadline for comments is on June 15th.

So, thanks very much for your participation, and we'll bring this meeting to a close.

(The meeting was adjourned at 7:50 p.m.)