

June 15, 2006

Workers Compensation Act Review Panel
Whitehorse, YT



RE: Submissions to WCB Act Review

Dear Panel Members:

These are additional concerns which should be addressed during the WCB Act Review discussions. Thank you for your kind consideration.

Issue #5 Benefits during appeal period. This issue included much information regarding time guidelines for appeals to be heard. As it is now, once an appeal is started at the adjudicator level, the entire process may drag on for two years or longer depending on the outcome of the decision. This must be addressed.

Issue #29 Calculation of wage loss benefits. Wage loss benefits should remain at 75% of the worker's gross rate of pay at the time of the injury. Policy CL35 which restricts the workers' benefit rate is in contradiction of the WCB Act.

Issue #35 Annuities. Annuity monies are those of the worker not the Board and as such the worker should have input as to how his/her annuity is being managed. It is ironic (read planned) the Board just released a policy proposal as to how annuity funds should be handled before the Act Review is completed.

Issue #21 Maximum wage and assessable earnings rates. In its calculations of the MWR the Board makes use of the average wage rate excluding overtime paid to Yukon workers during the period July 1 of the previous year to June 30 of the present year. Seasonal workers are expected to work many overtime hours. They are a large part of the Yukon's workforce. The average wage rate including overtime should be used in the MWR calculation.

Issue #13 Administration's standing at hearings. The worker representing themselves does not need the further presence of WCB administration at their Appeal Panel Hearing. The Board has two opportunities to review decisions of its internal decision makers (adjudicator and hearing officer). It should not be allowed presence at the final level of appeal.

Issue #21 Application to the Supreme Court. Workers should be allowed to apply to the Supreme Court for a determination of whether a policy of the Board is consistent with the Act. If the situation arises where the worker is representing himself, at present there is no provision to allow the Supreme Court to hear the workers' reasoning as to why he feels a policy is not consistent with the Act.

Issue #16 Implementation of Appeal Tribunal decisions - timeframe for. Needs attention as the status quo is hard on the worker and his family.

Issue #72 Limitation periods for appeals to the Appeal Tribunal and to the Board. Four other jurisdictions (Manitoba, Saskatchewan, NWT and Nunavut) do not have time limits. Our system is presently working so why the need for change.

Issue # 77 Employee's right to sue the Board for damages caused or exacerbated by the Board's actions. Both Labour and employers have claimed this violates the Meredith principle of not being able to sue your employer. Unless you are employed by the board you are not suing your employer.

Issue #80 Definition of disability. Justice R. Veale made a ruling on the definition of disability. His findings should be followed in the Act.

Submitted By

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