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October 19, 2017

Public Sector Workers Affirm Their Right to Decide

Nova Scotia Workers Continue Resistance to Liberal Government's Attacks

- Kevin Corkill -

Nova Scotia public sector workers gather outside Liberal Party AGM, Halifax, October 14, 2017.

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Around one hundred workers from across Nova Scotia came together on October 14, to continue their resistance to the attacks on their rights by the McNeil provincial Liberals. From as far away as Sydney, a five-and-a-half hour drive, workers converged at a Halifax park across from where the Nova Scotia Liberal Party was holding its Annual General Meeting (AGM). With the passing of Bill 148, the *Public Services Sustainability (2015) Act* and Bill 75, the *Teachers' Professional Agreement and Classroom Improvements (2017) Act*, the McNeil Liberals have made it clear they are intent on dictating the working conditions and terms of employment of more than 75,000 public sector workers in Nova Scotia. Public sector workers have responded with a resounding "No! We want a say and are determined to have a say on those affairs that affect our lives and the important work we do!"

The Liberal AGM was a pathetic affair with less attendance than there were demonstrators in opposition. Reports reveal they did not discuss any of the difficulties facing the people much less offer solutions. They appeared content to engage in self-congratulatory celebrations on their "victory" in the May 30 provincial election. This so-called victory, which the Liberals declare gives them a mandate to attack the working class and engage in anti-social nation-wrecking, was hollow indeed. Such elections split the working class between factions which serve the ruling class. They do not allow the working people to have a unified agenda to solve problems and have their peers become the government. On this basis, the Liberals claim to have "won" a majority of seats with only 21 per cent of eligible voters voting for them and with just 53.88 per cent of the polity casting a vote for any of the candidates. The low participation rate in elections has become routine and exposes the representative democracy as a sham and actual dictatorship of the rich over the working people. The need has never been greater for methods of governing where the working people decide the agenda and choose their peers as rulers so that they can be held to account.

The workers who gathered in the park expressed their determination to affirm their right to decide their working conditions and terms of employment and show the McNeil Liberals that these attacks on their rights will not pass. The Liberals have failed to resolve any problems facing Nova Scotians and lash out at public sector workers when what is needed is a pro-social alternative that stops paying the rich, increases investments in social programs and public services and defends the rights of all.

The rally was followed by informal discussion on what actions could be organized to further involve public sector workers and Nova Scotians in defending their rights. Workers are affirming their right to decide their working conditions and terms of employment and in doing so fight for a new pro-social direction for the economy and the rights of all!

All Out to Stand With Ontario College Faculty!

- David Starbuck -

Picket line at Cambrian College, Sudbury, October 18, 2017.

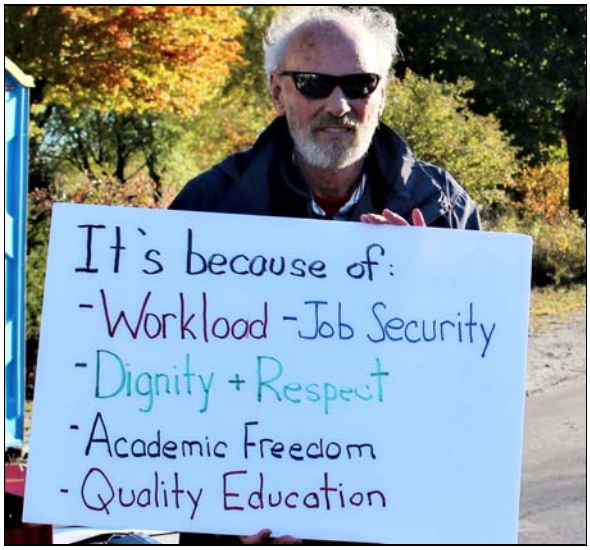
For the fourth time in 50 years, Ontario community college faculty members have found it necessary to take job action to obtain working conditions satisfactory to them, and which enable faculty to provide the quality education and training that today's students require.

The struggle of the college faculty is just. The fight for their rights is a fight for the rights of all. The longstanding demand is for stability and job security for part-time and contract staff and the need to have college decision-making follow academic criteria. These demands favour the students as well as college workers themselves. The fight is for a modern education system that defends the rights of all.

The strikes in the Ontario college system have mostly centred on workload, job security, academic freedom, quality education, dignity and respect. In essence, they have been about who decides and in what manner.

The four-week strike in 1984 was about workload. Faculty demanded and won a formula that measured the work of each faculty member in classroom teaching, preparation, evaluation, routine administrative tasks and other assigned duties. The workload formula established a limit of 44 hours per week and a maximum of 36 weeks of teaching with the balance of the academic year assigned to

course and professional development. College administrators have never reconciled themselves to implementing the spirit of the workload formula but have instead found myriad ways to subvert its intent.



The response of college management to the workload formula was to increase the number of contract faculty (part-time, partial-load and sessional), increase class size, reduce the hours of instruction of community college courses, increasingly replace human teachers with technology, and privatize many ancillary college operations.

When the college system was instituted fifty years ago, it was designed to be based primarily on full-time permanent faculty. Sessional faculty worked thirteen or more hours a week, a system designed for medium-term replacement of faculty who were away for medical reasons, maternity, sabbaticals, etc. The colleges agreed to replace a sessional employee with a permanent employee if the work existed for more than a year. Part-time faculty taught six or fewer hours per week. This enabled the colleges to bring in specialists such as dentists in the dental hygiene programs.

No provision was made for those who taught between seven and twelve hours per week. The government's *Colleges Collective Bargaining Act* banned part-time and sessional employees from joining a union. The increasing number of faculty hired for seven to twelve hours per week became known as partial-load employees. Since they were not specifically proscribed in legislation from joining a union they won that right in court in the early eighties. This left the present mishmash of employment conditions for faculty, and encouraged college management increasingly to hire contract employees with no or limited rights as opposed to permanent employees with certain rights.

Sir Sanford Fleming College, Peterborough.

Crisis in the Economy Reflected in the Colleges

College programs were originally designed to resemble the workplace not the university. Programs ran for 35 hours per week and most work was expected to be done in class with only very limited

work to be done at home. Over the years, classroom hours have been reduced. Few programs have more than 25 hours per week of instruction and often less than 20. In addition, the length of the semester has been decreased in most programs.

Despite the rhetoric of the colleges about student success, students have increasingly been left to fend for themselves and pursue their studies by independent means.

In all key features, Ontario electoral political parties of left, right and centre have pursued and supported this program of attrition in response to the deepening of the economic crisis.

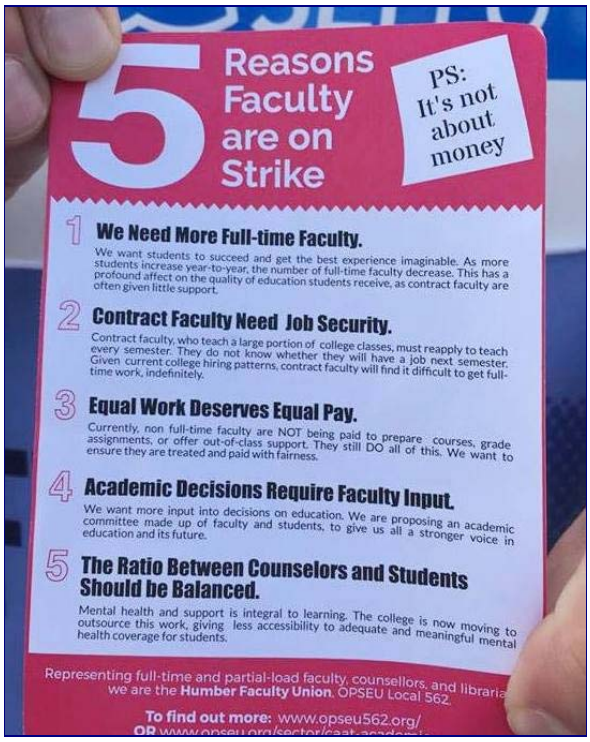
Ontario governments of various stripes have funded students and the community college system at the lowest rate of all provinces. Their solution to the intensifying economic crisis has been to shift the burden of the crisis onto the backs of students and college employees and to keep faculty and support staff out of any significant role in college decision-making. The Liberal government has even learned to dispose of contract negotiations before the scheduled election so that they do not overshadow the campaign.

The Government of Premier Kathleen Wynne Is Responsible for the Current Situation

Algonquin College, Pembroke.

Society needs community college graduates as skilled workers to meet the demand of the modern economy. Whereas universities have some independence in decision-making by virtue of their charters, community colleges are creatures of the Ontario government and subject to its whim. The Ontario government uses college education to pay the rich in various ways by providing trained employees while those who employ them do not pay for the value they receive. Also, through various privatization schemes, public monies for college services are routed through the hands of the monopolies and the rich.

The Ontario government has permitted, and even demanded through underfunding, that the colleges use faculty on a precarious basis. The Liberal government of Dalton McGuinty engineered the farce of 2008, whereby contract college employees were given the right to vote to unionize days before the election was called. After the election, the McGuinty government colluded with the College Employers' Council to prevent the counting of the votes and block the right to unionize.



Click to enlarge.

The human necessities of college employees, especially those of contract employees, are given no consideration. No thought is allowed as to how the Ontario community college system, its employees and students, can serve a nation-building project to advance Canadian society in the twenty-first century on a new historical basis.

College management is pursuing a vision of the Ontario college system in which a relatively small number of permanent employees act essentially as administrators and managers of a large number of insecure, low-paid contract employees with no rights who are treated essentially as widgets to be employed or not employed as meets the needs of the colleges. College administration does not see the role of the human factor in college education; they have a predilection for industrial methods. They are opposed to any sort of collegial decision-making in which faculty participate with an independent voice.

College Workers Demand an End to Nation-Wrecking

Seneca College, Toronto

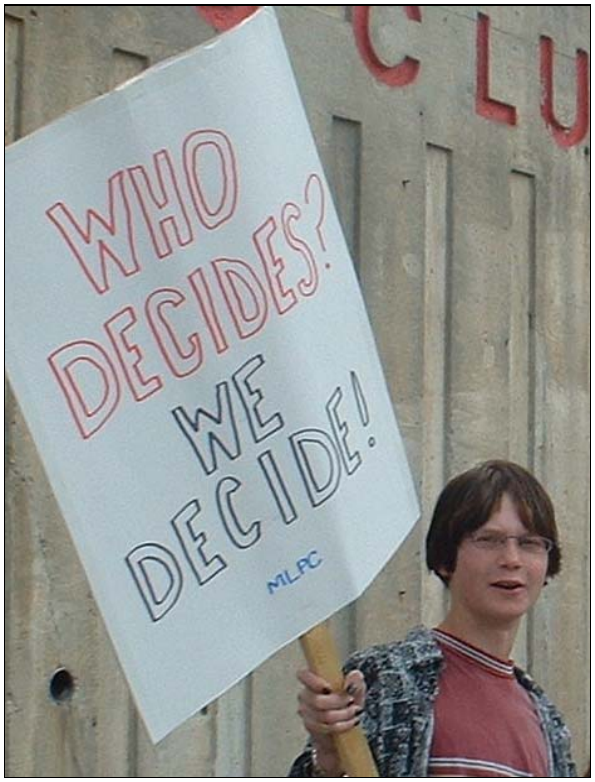
The situation is coming to a head. College management seems determined to force a showdown. In this, it must have the support of the Wynne Liberal government. College management shows no willingness to negotiate a principled settlement. It promotes the idea that the union proposals will reduce jobs of contract employees instead of turning contract employees into full-time employees. It

rejects the modern view that putting value into hiring new full-time faculty lifts up the entire college education system adding enormous value to the economy and society. Instead, the College Employers' Council seems determined to vilify faculty and demonize them in the public eye as a cost, not a valuable asset adding essential value to a modern society. The Council's propaganda smells of ulterior motives to take value out of the college system and put it elsewhere. At the very least, it does not show any inclination on the part of college management to find a principled settlement with faculty.

The Right to Decide Those Affairs that Affect the People

This October, sessional and part-time faculty have been engaged in a union certification vote. For 50 years, contract college employees have been prevented from exercising their right of association through the terms of the *Colleges Collective Bargaining Act* and the legal trickery of "labour relation experts" such as the Hicks Morley law firm. Successful unionization of college contract employees will shift the balance of power towards college employees and students and give them a greater voice in the direction of the college system and the important decisions that directly affect their lives. The College Employers' Council wishes to force a new contract on full-time faculty on terms acceptable only to college management and limit faculty's freedom of action before union certification of college contract employees is complete.

College management seems determined to subject all college decision-making to their whim. In opposition, faculty members want to uphold their professional judgement and academic freedom, which includes the integrity of their courses and their content. The need is now to rally behind the strike mandate, for all faculty members to stand firmly for a college system that serves themselves as educators and meets the needs of students. The need is now for workers from all sectors of the economy to be very active in supporting the just demands of the college faculty. Support for this strike is a stand for rights and against Liberal rhetoric that attempts to cover over the difficult reality facing the working people and ends up doing nothing to solve the problems facing the people, economy and society.



The main issues in this strike are **Who Decides** and how decisions are made, job security and decent working conditions for contract employees. In the final analysis, college management and the Ontario government want a college system where decisions of any significance are made by management in the interests of the monopolies, where faculty, support staff and students are mere pawns of the rich and powerful. This cannot be allowed to pass! Modern society demands that all workers, including contract college employees have the right to job security and to wages and working conditions acceptable to themselves. Modern society demands the participation of all in making the decisions that affect their lives!

All Out to Support Ontario College Faculty Members in Their Struggle for Job Security and the Right to Decide!

Confederation College, Thunder Bay

St. Clair College, Windsor

Mohawk College, Hamilton

Humber College, Etobicoke

George Brown College, Toronto; Durham College, Oshawa

Georgian College, Barrie

Cambrian College, Sudbury

Algonquin College, Ottawa

David Starbuck is a retired Ontario community college teacher and the federal Marxist-Leninist Party candidate in Sudbury. He taught technical mathematics at Cambrian College in Sudbury for over 32 years. For many years, David served as a steward and communication officer for the faculty union, OPSEU Local 655. In his later years, the Cambrian faculty members elected him to defend their interests as the sole faculty representative on the Cambrian College Board of Governors.

(Photos: TML, OPSEU, M. Magner, H. Irlichsen)

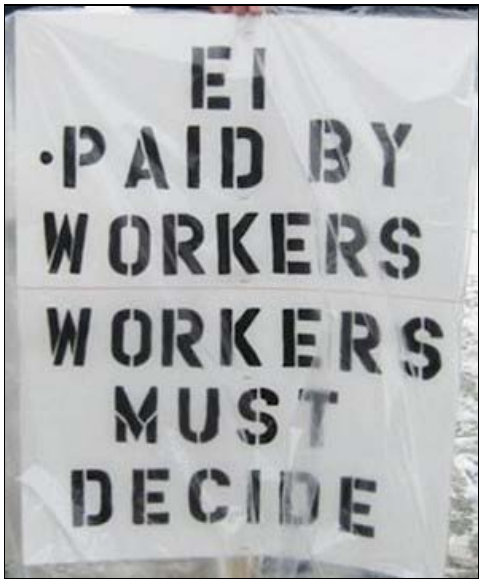
Opposition to Federal Anti-Worker Regulations

Defence Organizations of Unemployed Workers and Unions Demand Abolition of Arbitrary Appeals Tribunal

- Pierre Chénier -

Thirty-two groups, mostly defence organizations of unemployed workers and unions, sent an open letter on August 30 to the federal government demanding deep changes to the Employment

Insurance appeal process. The main target of their letter is the Social Security Tribunal. The Harper government instituted the arbitrary tribunal as part of the anti-social reform of the Employment Insurance regime in 2012-13.



The new appeal process of the Social Security Tribunal has caused havoc in the lives of unemployed workers and EI recipients. In the face of opposition to the tribunal across the country, in March the Trudeau government hired the global accounting giant KPMG to review and consult on the tribunal's performance. In early September KPMG reported to the Minister of Families, Children and Social Development on its findings and recommendations. The report has not yet been made public.

Under the hoax of streamlining various appeal processes and "saving money for the taxpayers," the Harper government created the Social Security Tribunal as the body to hear appeals from applicants for Employment Insurance, Old Age Security and the Canada Pension Plan. The tribunal replaced the EI Board of Referees/Umpire appeal process, instituting in its place a two-step appeal process with a General Division and an Appeal Division. The roughly 800 people working for the EI Board of Referees/Umpire appeal process were replaced by about 100 people appointed by the government.

The former Board of Referees was a multi-regional tripartite structure, with one representative from employers, one from working class organizations and a chairperson. The regional members of the Board of Referees were from the region where the worker lived and filed an appeal with all hearings required to have the worker present.

Under the new system, a single member of the tribunal hears the appeal. That person does not have to be from the region and is not required to conduct a hearing with the worker present. Most of the hearings are conducted by video conference or over the phone, even from the home of the member of the tribunal.

Abolish the Tribunal!

The signatories of the letter demand replacement of the Social Security Tribunal. They pinpoint many devastating aspects of the current process. They estimate that the time required for decisions both at the first instance at the level of the General Division and at the second Appeal Division level has quadrupled to an average of four months. In the case of the Appeal Division, the time may extend to a full year and more. Needless to say, the unemployed workers are forced to find a way to sustain themselves without EI benefits while this process slowly proceeds, which is entirely unjust.

Access to any aspect of the appeal process is by no means automatic. At the level of the General Division, the member of the tribunal has "summary dismissal" power, which means the application to appeal can be dismissed without even hearing the worker.

At the Appeal Division, the worker must ask for authorization to appeal and the case may be dismissed without any further hearing.

Since the establishment of the arbitrary tribunal, the number of EI appeals has dropped dramatically. Under the previous regime, 24,000 requests a year to the first level of the Board of Referees were accepted.

Before accessing the new appeal tribunal, any worker challenging an unfavourable EI decision must file a request for reconsideration. Workers file approximately 58,000 requests for reconsideration per year of which 30,000 are summarily dismissed. Of the 28,000 allowed to appeal, only 3,500 workers a year continue the process.

The appeal process is also highly secretive. Workers often do not receive a copy of their file until late in the process. If they are not represented by a defence organization, life is a bureaucratic journey into an unknown abyss. The defence organizations of the unemployed have coined the expression that the new appeal process is a "no right, no benefits process."

Rights of the Unemployed Must Be Recognized and Upheld!

The casualties of the process and indeed of the entire EI regime are the rights of the unemployed and the facts surrounding the reality of being unemployed and without a livelihood in a socialized economy controlled almost entirely by big companies. The EI regime and appeal process do not recognize the right of unemployed workers to compensation at a Canadian standard. The current economic system has never been able to provide steady employment and a livelihood to the workers because that is not its aim. In fact, unemployment is lauded by those in control of the economy as necessary for its proper functioning. Unemployment ensures there are always workers whose capacity to work is available for purchase by those who own and control the socialized economy. Unemployment also puts downward pressure on the price of workers' capacity to work. Without full employment for all as an aim of the economy, redress and compensation must be provided to the unemployed as a right.

The EI regime dismisses the facts of life of the economic system in the most arbitrary absurd way. The EI regime is based on assumptions of levels of unemployment in definite regions. These assumptions are recognition that unemployment is a constant in the lives of workers. However, these assumptions do not lead the EI regime to provide full compensation to the unemployed as a right but are used arbitrarily as determinants of EI eligibility. This turning of facts and truth on their head permeates the entire anti-social anti-worker EI system, including the appeal process.

Even though the actual conditions in a region are supposed to be used as a determinant in EI claims, under the new regime a member of the tribunal may arbitrate appeals from regions with which they have no connection at all and no knowledge of the concrete conditions that workers there face.

Activists tell *Workers' Forum* that they are brushed off when they bring forward facts of the conditions of life, even those relating to how workers are paid. (See interview below.) These facts are necessary within the rules to determine the EI amount unemployed workers are entitled to or to determine if a decision forcing repayment of benefits because of overpayment was made in error, etc. Workers themselves and their representative are being eliminated from the process, with no hearing occurring at which the unemployed are present and able to present their case face to face with another human being who might listen to them. What remains is entrenched executive power, the arbitrary police power of the state, which criminalizes and marginalizes the unemployed and renders account for these actions to no one.

The signatories of the letter make it clear that they do not want the result of the review to be minor tinkering with the EI regime. They demand real changes favorable to the workers and their rights. Among other things, they demand the reinstatement of the three-member panels that existed with the Board of Referees, the removal of the "summary dismissal" power, and the requirement to seek leave to appeal. They demand full information be provided on each and every case to workers and their representatives right from the beginning of the process. They also demand that workers be entitled to a hearing in the format of their choice -- in person, by video or telephone.

"We Are Demanding Deep Changes to the Employment Insurance Appeal Process"

- Interview, Sylvain Bergeron, Coordinator of Actions and Services Working in Unity with the Unemployed, Saguenay-Lac-Saint-Jean (LASTUSE) -

Workers demonstrate in Saguenay, February 23, 2013, against Harper government's EI reforms.
(D. Canuel)

Workers' Forum: LASTUSE, as a member of the Autonomous Movement in Solidarity with the Unemployed (MASSE), supports the call for a complete overhaul of the EI appeal process. Can you describe what LASTUSE has experienced with this appeal process and what changes you demand?

Sylvain Bergeron: In the appeal process at this time, we have access to only one person, who is appointed by the government. Gone is the Board of Referees, which was made up of three people, one representative of the employer, one representative of labour, and a chairperson appointed by the government. They were all from the region and knew the reality on the ground. Now we are dealing with one person, who does not even have to come from our region.

A general problem facing the new system is the difficulty of having the facts examined in the appeal process. I believe that in remote regions we live this reality a little harsher than other places. For example, we often have forestry workers going through the appeal process. Since we no longer deal with a Board of Referees, who were local people, people from the field, the new member of the Social Security Tribunal does not know the region and certainly the peculiarities of the forestry industry. When we start dealing with how payrolls work in logging, for example, and payrolls play a big part in applications and appeals in the employment insurance system, they are completely lost. They have no idea of what we are talking about. These are people who were simply appointed by the government as judges. Among them are former Progressive Conservative candidates or donors to the party.

Another example is that the judge of the Appeal Division does not accept that the facts must be examined. At that level, he is only considering arguments on points of law. The judge considers the decision that has been taken by the lower level of appeal strictly based on whether it is good from the point of view of the law. It was different before with the umpire. The decision was also made on the basis of the law but the judge agreed to examine the facts and took the time to examine the facts of the case.

Another important issue is the hearings. Hearings should be conducted in person, as was the case before. This forms part of the credibility of the case. The hearings are largely an issue of credibility, the word of the worker versus the word of the employer. But since the introduction of the new system, only one or two per cent of my files are heard in person. The hearings today are done by video conference or even the telephone. Without even seeing in person the reactions of the judge, my EI recipients often ask me, "Do you think the judge listened to us?" This lack of seeing the adjudicator in person puts additional stress on them.

Knowing the regional particularities, the concrete reality, is very important. To act as referee, it takes people who know the reality. That knowledge makes a huge difference in the decisions. When I appeared before the Board of Referees I had a success rate of approximately 93 per cent. Now, at the level of the General Division of the Social Security Tribunal the success rate has fallen to about 70 per cent. We are now more often forced to go to the next level in the appeal process since this new tribunal system has been in place.

Another problem is the delays, which have become extremely long. Before, at the Board of Referees, the process could not exceed 45 days to settle a file. Now at the General Division it takes months and even longer at the next stage, which can drag on for a year or even longer.

Meanwhile, the stress on the unemployed is very intense. People have to live somehow while these things drag on. In addition, there is the fear that sets in around the process, something which has existed for a long time, well before the Harper reform. Many unemployed people no longer want to apply for EI because they are afraid. They say that if they are to be treated as fraudsters, then they will no longer apply. They may be eligible but they do not apply. They empty their RRSPs. They face increasing hardships just to make ends meet.

The situation for the unemployed is extremely difficult in regions where the economy is worse off, such as in the Gaspésie, Côte-Nord, Abitibi or Saguenay-Lac-Saint-Jean. Finding a job is very difficult there. The pressure on unemployed workers is stronger. We demand deep changes to the Employment Insurance appeal process.

Justice for Injured Workers

Compensation Is a Right!

- Peggy Morton -

The Report and Recommendations of the Alberta Workers' Compensation Board (WCB) Review Panel were released in early July. Submissions on the report were accepted by the Alberta government until September 30. The government will now review the recommendations and responses, prior to introducing new legislation.

Many injured workers participated in the review, together with unions and advocates. Injured workers spoke out on the terrible impact of the violation of their rights by a WCB obsessed, not with caring for injured workers, but reducing employer premiums. They conveyed the important message that the wrongs inflicted on injured workers in violation of their rights must be acknowledged and redressed.

Particularly over the last 15 years, the WCB has been focused on finding ways to deny benefits to workers. Those schemes include outright rejection of claims by dismissing the opinion of treating physicians and health professionals, deeming workers able to perform non-existent jobs at inflated wages, declaring that workers have a "pre-existing condition" and other ways. In addition, no one has tabulated or exposed how many employers have coerced injured employees into not filing a WCB claim so that employers could benefit from "incentive schemes" to reduce premiums.

The Review Panel began its work in early 2016. Many injured workers actively took part in the review. Seventy workers from different sectors of the economy participated in meetings between the panel and injured workers in Edmonton, Calgary and Lethbridge. Injured workers, individual unions, the Alberta Federation of Labour and other advocates completed questionnaires, gave written submissions, met with the panel and took part in "engagement sessions."

In its report, the Panel acknowledged that the WCB is seen to have a "culture of denial." Workers spoke out demanding the WCB and other authorities treat injured workers with respect and dignity. They affirmed their right to maintenance of their standard of living, to retraining when needed, to accommodation at the workplace, and to have all their medical and health needs met. They smashed the silence on the poverty and pain in which so many injured workers are forced to live and the brutal treatment rained down on them by the WCB.

The Final Report of the Panel included 60 recommendations addressing some of the major concerns

put forward by workers and their collectives. They include:

- Establish a Fair Practices Office operating independently from the WCB, to provide increased assistance to injured workers including an alternate disputes resolution process. The Appeals Commission and Medical Panel Office would operate independently of the WCB.

- End all incentive programs for case managers and health care providers to send workers back to work or be declared ready to return to work. Remove all arbitrary limits to treatment (such as the secret "six week rule" for physiotherapy).

- Selection by workers of health care providers such as physiotherapists; independent medical examiners to be chosen by the worker from a roster established in conjunction with the College of Physicians and Surgeons of Alberta, not by the WCB; ending the practice of using WCB paid and retained "medical consultants" to provide second opinions on workers they have neither seen nor treated for the purpose of overriding the opinion of the treating physician.

- End the practice of returning "surplus" premiums to employers. For example in 2015, the "surplus" returned to employers was equal to 40 per cent of all premiums paid, with employers paying the lowest premiums in Canada even before the "surplus" was returned.

- Require employers to continue coverage under existing health benefits programs.

- Provide interim relief for workers who have demonstrated they have an arguable case while their matters are under appeal.

- Make changes to the deeming process to eliminate the most fraudulent aspects.

The Canadian Injured Workers Association of Alberta called for further reform of the deeming process. It states, "The recommendations of the panel address the fraudulent deeming practices of the WCB, in particular the way in which WCB declares workers capable of working full-time at a phantom job such as a parking lot attendant or store greeter, irrespective of the workers' skills, experience, education and physical limitations, and the existence and availability of such work. To add insult to injury, WCB then increases the imaginary wage for this phantom job every year until workers are left with a pittance or often no benefits at all.

"The recommendations are a good beginning, but in order to protect the rights of injured workers, deeming must be used only when documented evidence exists that a worker has refused a legitimate job offer for appropriate work. The job must be available and suitable for the worker's skills, education and experience. The WCB must support injured workers in their efforts to obtain real work. The reluctance of employers to hire injured workers must be recognized, and compensation continued until workers have found suitable work. A 'deemed' wage must not only be based on verifiable information as proposed by the panel but established annually, not years into the future. All workers now deemed should be able to have their case re-opened including access to appeal."

Read the full 192 page report of the Workers' Compensation Board (WCB) Review ***here***.

Response to Alberta Workers' Compensation Board Review Panel Recommendations

Group photo, members of the Canadian Injured Workers Association of Alberta.

The Canadian Injured Workers Association of Alberta (CIWAA) recently issued its response to the report and recommendations of the Workers' Compensation Board (WCB) Review Panel established by the Alberta government. CIWAA congratulated all the injured workers, their allies and advocates who have worked to smash the silence on the fate of injured workers. CIWAA stated it was "pleased to see that the recommendations of the review panel have addressed some issues of great importance to injured workers."

However, the CIWAA identifies five important issues not considered by the panel, and calls on the government to implement the changes outlined below. It also calls for an ongoing consultative role for injured workers through their organizations as part of a new Fair Practices Office. In addition it calls for further measures to restrict deeming, which should only be used when documented proof exists that a worker has refused suitable work.

"1. Justice for Injured Workers now without benefits and often living in extreme poverty. The report details many ways in which workers are unjustly denied benefits, but makes no recommendations for reparations and to address the ongoing injustices.

"The panel recognized that the review and appeal process is daunting for injured workers, especially those who do not have a union at their workplace or collective to support them. Injured workers living in poverty may have abandoned their claim, missed a deadline, or failed to assemble the evidence they needed to counter the 'medical opinions' of WCB-retained 'paper doctors' who never saw or treated them.

"Recognition of the failure of the current WCB system to uphold the rights of injured workers requires that injured workers whose claims have been unjustly denied have access to review and appeal. All denied claims of injured workers where the decision was based on the opinion of WCB paid physicians, medical consultants and medical panels which contradicted the clinical observation and findings, ongoing direct examinations and supporting medical evidence of treating physicians and/ or health care providers must be reopened on request. As well, if the worker now has evidence or medical opinion which was not previously presented at the time of adjudication, this evidence should be considered and not rejected on strict legal grounds, e.g. time limits or lack of 'new evidence.'

"2. Claim suppression: Employers must not be permitted to engage in claim suppression with impunity and strong penalties against employers should be in place. All systems which encourage employers to suppress claims must be ended.

"3. Non-economic loss payments [NELP] should reflect the real impact of a disability on a worker's life outside the workplace. Current payments show how little value is placed on the life of a worker. To provide some examples of how profound changes to a worker's life are valued: a worker who becomes legally blind in both eyes would be eligible for a NELP of $28,800; complete immobility of a knee -- $22,500; hearing loss -- from $360-$4,500 (and no, $360 is not a typo) and infertility -- $4,500. The maximum for a worker who is totally disabled (e.g. paralysis of at least two limbs, profound brain injury, loss of both hands) is about $90,000.

"4. Medical Panels. The decision of a Medical Panel is considered final and not subject to any form of appeal. This is a denial of natural justice. For example, new information could show that the Medical Panel erred. Therefore decisions rendered by Medical Panels should be subject to appeal.

"5. Pre-existing conditions: The WCB declares that normal aging constitutes a 'pre-existing condition' -- a blatant form of age discrimination. Even when a worker has not previously been diagnosed or treated by a physician for this 'condition,' and was able to perform their job before the injury but can no longer do so, WCB declares a 'pre-existing condition.' WCB then limits benefits to a period of recovery from an 'exacerbation of the pre-existing condition.' WCB should recognize a pre-existing disability or impairment, not a pre-existing condition."

The CIWAA calls on injured workers and their allies to continue to go all out on the basis that Workers' Compensation Is a Right, to ensure that the positive recommendations of the panel and the important issues not included in the panel's report be addressed in new legislation and WCB policy.

PREVIOUS ISSUES | HOME

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