

## Have You Been Injured at Work?

Here are a few things to watch out for.

In the labour movement we are always trying to get workers to report their injuries to the employer and to see the doctor, in order to ensure their claim will be accepted. But what about after it has been accepted? What can you expect next?

Firstly, most employers these days will be trying to get you to sign a statement saying that you know there are “appropriate” light duties available. Sometimes they will be trying to get you to sign this acknowledgement before the ambulance even takes you away!

Of course no one knows what light duties would be appropriate until you have been properly diagnosed and treated. What you will find is that while your doctor may tell you to take time off work, the employer will be trying to force you to ignore that advice, and the WCB<sup>1</sup> will usually agree with the employer.

If the employer says there are “appropriate” light duties but you have refused them, the WCB will often suspend your benefits. Your greatest defence here is your doctor! See your doctor regularly and make sure a good paper file is created. If your doctor is familiar with your case and takes a strong position that you must take time off, this is your best chance of winning the argument.

A favourite position of the WCB is that if you have injured one hand, you can go back to work at modified duties and work with your other hand! This often makes no sense at all since we automatically, without even thinking about it, use both our hands. If you go to pick up an object and it starts to fall, you'd have to be a Zen master to have enough control to keep from using both hands to catch it! Discuss this with your doctor. If she says you must not go back, get her to write that clearly in her report to the WCB.

Here's another thing that can be HUGE for injured workers: if you have a compensable injury and are at home (or anyplace away from work) and something occurs to make it worse, the WCB will often cut you off because it happened away from the workplace.

For example, Harry is a Longshoreman who is used to doing heavy work. He has a back injury on the job, is accepted, and goes on WCB benefits. While at home, he picks up his dog that weighs 30 lbs. This hurts his back. Now, Harry has been lifting that dog for the

---

<sup>1 1</sup> Legally, it's still the Workers' Compensation Board (WCB). In 2002, sweeping changes were made to the workers' compensation system (see our paper: Insult to Injury), which significantly reduced benefits for injured workers. It was at that time the WCB rebranded itself to be “WorkSafeBC”, which is a marketing name, not a legal name. For us, “WorkSafeBC” represents the erosion of benefits for injured workers and the name, in our opinion, puts an onus on workers to ‘work safe’ rather than on employers to provide safe work. So for us, it remains the WCB.

past 10 years, but this time, because he already had a work-related hurt back, it aggravates it. He goes to his doctor and says, "I was picking up my dog and something snapped in my back and now I'm in worse pain." The doctor writes that in his report and sends it to the WCB. That's it; Harry is cut off. The WCB says that he was not at work when he reinjured his back and therefore it's not their problem. This is a common situation, because who would ever think for a moment that lifting up their 30 lb. dog, (or a bag of groceries or a shovel etc.) would be considered a separate non-work-related injury?

You also have to remember that anything you tell your doctor is probably going to go into her report to the WCB. So if your injury is worse, don't "speculate". We've seen more cases of people being cut off because of something they said thoughtlessly to their doctor, like, "I don't know why it hurts more. Maybe it was from playing table tennis at the Church on the weekend." (And maybe it's not, but once the WCB sees that, they are going to rely on it and likely cut you off.) Think before you speak.

At the date of injury, the WCB will pay you benefits based on what you were earning at the time. After 10 weeks on benefits they are required to set a "long term wage rate". This is supposed to more accurately reflect what you would actually be earning. Be prepared. If you are a firefighter, for example, and have a gardening business on the side, you should ensure that the WCB knows about that income too so that your wage rate will be correct. You want to be sure they know all your income in order to get maximum benefits. Check the amounts! Make sure they're right.

Above all, **don't forget to see your doctor regularly!** We can't stress this enough. Even if you go back to work, continue to see your doctor if you still have complaints. If you go back to work while your knee/shoulder/back etc. is still hurting, and you do not visit your doctor at least occasionally, the WCB will not believe you if the condition flares-up, you need a reopening, and you tell them it has been bothering you all along. To the WCB a few months without doctor's visits is like a signed statement that you have completely recovered.

Continue to make a paper trail even after you have been accepted. You may have injured several areas of your body in your accident but only one may be accepted by the WCB. Documentation of your complaints to your doctor, again, is the major evidence you can use on appeal.

Finally, if your injury is permanent, you will be assessed for a Disability Award. Once again, ongoing documentation by your physician will be strong evidence to prove that you have a residual disability. Keep that in mind for the future.

Rush Crane Guenther, Barristers & Solicitors  
Suite 300 – 111 Water Street | Vancouver, B.C. V6B 1A7  
Tel: (604) 687-5611 | Fax: (604) 681-0912 | E-mail: info@rcga.com