

Name of Presenter: Tom Lindsey – Steelworkers Union
Date Received: May 3rd 2004

Presentation to WCB

Every day we hear stories from workers who feel they have been abused by Workers Compensation rules and/or policies. The original intent of a Workers Compensation Plan has long since been lost. There should be no question as to what an injured worker is entitled to. There should not only be no loss of income or benefits but there must be a means to increase those benefits as the injured workers wages would increase if they had not been hurt. If a Collective Agreement had covered them they must be entitled to the increases in wages and benefits, which have been successfully negotiated for their workplace. It is unacceptable that an injured worker is penalized by being held at an income level (except for minor cost of living increases) that they may have been at 5 or 10 or more years ago. It becomes even more objectionable when in reality they are held to a maximum of 80% of a capped pre injury income level. This is just plain wrong. Many workers earn wages far in excess of the \$50,000.00 cap and their lives are structured around that amount, their bills do not magically fall, only their income. If you get hurt at work you must be compensated to 100% of your earnings and nothing less.

The system for any payment must be fair to all injured workers. How can a worker be discriminated against by reason of age? What has age got to do with income? If a worker is 35 years old or 45 years old should have no bearing on what they are compensated. No other party would be allowed to pay a worker less just because they happened to be over 45 years old. What a worker earns is what they should be compensated for, nothing less.

One of the often-heard concerns we hear from injured workers is that they really do not want to be bothered with the hassle of filing a claim. Workers hear the horror stories of those they work with, the assumption that if you file for benefits you must be either lazy or trying to pull a scam. Who has been scammed for all these years are the honest hard working people of this province who have had the misfortune to become injured in the course of their work. Long delays in getting an initial payment from the board, harassment from stressed out caseworkers, a fight every time they require a benefit they are entitled to, conflicts between their doctors and WCB doctors all lead to injured workers not wanting to file a claim. This must change; everyone is not a crook and should not be made to feel as if they are. The hassle of traveling to Winnipeg not only for medical treatments but also for appeals is another problem that must be addressed. Why can appeals not be heard right here in Flin Flon? Anything that can be done to make the system less arduous for an injured worker must be implemented.

Stress is another issue, which needs to be addressed. Presently you can be compensated for stress only if it is from a single traumatic incident. There are other reasons for stress: pain, lack of sleep, worry about bills, inability to continue with recreational activities, etc. that can lead to stress related disorders such as depression. Alberta is considering allowing compensation for stress caused from ongoing types of problems rather than just the single traumatic event. Manitoba must

make these changes also. Stress is stress weather caused by one incident or by a culmination of incidents and should be compensated.

A problem, which is emerging is allergies and or sensitivities to substances, which workers encounter at work. How will they be compensated for this type of injury where the cause may not be well understood yet? The "Dominant Cause" model presently in use does not work for these types of claims. The worker may not be able to go into the workplace even though it can not be proven exactly which chemical or combination of chemicals or substances are causing the problem. It is not the workers fault that the science of disease has not kept pace with the introduction to new chemicals or new uses for existing ones. Along with this is the long latency period for symptoms to manifest themselves. If a disease or condition is caused by something they were exposed to years ago there may not be a traceable link. If a chemical or substance has caused a worker over time to become sensitized the worker may well be sensitive other things now as well. Once again the "Dominant Cause" model breaks down. There needs to be a "Probable Cause" or "Possible Cause" model developed to properly compensate workers. Along with this there needs to be more research into Cause and Effect.

One of the things that we as a Union do, as part of the "Workers of Tomorrow" campaign, is to go into local schools to talk to young workers. It is hard to explain to them that while Workplace Health and Safety laws apply to all workplaces in the Province WCB coverage is only for some of them. How is this acceptable? All workers in the province must be treated fairly and should all be entitled to Workers Compensation benefits should they get hurt while at work.

Modified Return to Work, what a great idea that's gone horribly wrong. It is too bad that the WCB has abused this system to the point that they are forcing injured workers back to their employers and their workplace when there is no meaningful work that really fits their restrictions. As long as an employer says they have a return to work or modified duties program a worker is forced to return regardless of what their doctors may think is best for them. We have seen cases where workers came out long enough to have a cup of coffee and then go back home, is this acceptable practice? How are workers duties assigned? Is there someone at the workplace who is competent to make those kinds of decisions? I don't think so. Yet the worker has no choice but to do these duties even at risk of injury. Someone from WCB may come and review some jobs, but generally only those that are long term and one would have to wonder about their abilities and/or competency to carry out a proper assessment. Workers are being told to come to their normal jobs but only do what they think they can do. This is just plain wrong, who are they to decide which functions they should or should not do while under pressure to do them all. It is not fair to them or to the other workers who will be expected to pick up the slack. It is not fair to a supervisor who has no understanding of restrictions or pain or abilities but who only knows that the work must be done. One of the major negative aspects of return to work programs is that the WCB does not offer much for retraining opportunities, as was once the case. This limits an injured workers ability to mitigate their circumstances. For the most part once you get into modified return to work duties you will not have the opportunity to better yourself but will for the most part be held in menial type jobs. There are of course exceptions to this. The whole concept of Modified or Return to Work needs to be re-looked at with some very specific guidelines developed.

Worker access is a big thing for those in the north. If you have to see a specialist it means a trip to the city and all the stress associated with that. Will the worker be paid, when will they be paid, will it mean money out of pocket and a hope for reimbursement from WCB? How will they get there, does it mean an 8 to 12 hour car ride or a longer bus ride. Is the nature of the injury taken into account when these decisions are made? While it is understood that trips to doctors will take injured workers away from their homes why should an appeal also force them to a trip out of town? It must be possible that appeals can be heard in an injured workers hometown. It is easier for able-bodied people to travel than it is for sick and injured people.

We are not for one second suggesting that Workers Compensation should be scrapped, as bad as it sometimes is, it still beats the alternative. The thing that needs to be kept in mind is that injured workers are people, people who have gotten hurt or sick just from going to work. They need to be treated with some dignity and respect. Sometimes it appears to them that they are all being treated as crooks and malingerers. Most workers want nothing more than to get back to their jobs and their lives. From workers I have spoken to it seems that there are not as many problems with the short-term injury it is when a worker has long-term problem that the real fights begin. How people who work for the WCB treat them seems to be a real big issue for all long term injured workers. All of this leads to more stress and anger this, needs to be addressed. I have seen workers become so bitter and angry from the constant unrelenting pressure not just from their employer but as much or more so from the board that it affects their every thought and action. People should not be abused like this. There is no need for it.

How does the WCB set "Policy"? Is it an open and transparent process? I don't think so. If we wanted to change a safety regulation there would be a rather lengthy process which is open to public scrutiny, there is ample opportunity for those affected to have their say prior to change being implemented. It would appear this is not the case with WCB; policy gets written and implemented on an ongoing basis. Lose an appeal, write a new policy, or lose money write new policies. This is wrong. Policy cannot be changed in secrecy and then foisted upon the unsuspecting workers. It should be tougher to change WCB policy than it is to change safety regulations.

Employers will undoubtedly be complaining that they need to have lower costs. If you give workers what they deserve there may well be an increase in cost to the employers. How can employers lower their costs? Quit hurting workers. All workplace or employers in the province should be included in the plan and all should share the cost this will help lower the cost for individual employers. In the past we have seen some employers receive huge rebates and/or drastic reductions in premiums all of this has been bourn by injured workers who continue to get less and less for benefits. Employers will talk of fairness and an even playing field, that's all workers want, treat us fairly and compensate us if we get hurt at work.

Tom Lindsey

Health & Safety Rep.
USWA Local 7106