

## WHEN YOU ARE INJURED AT WORK

### Report Report Report

We can never say this too often: if you have an injury at work or if you start to develop pain or symptoms that you think are from your work activities, **you MUST report it to first aid and you should also file a WCB<sup>1</sup>claim.** Too often we hear workers say, “Well I had two weeks vacation coming up” or “I thought if I just iced and rested it over the weekend, it would get better on its own.”

If you have not reported it and it develops into something serious later on, you may not be able to prove how it happened or when the symptoms started, or you may be out of time. *You do not have to miss time from work in order to file a claim. When in doubt, report!* I have seen literally hundreds of workers who lost out on benefits, healthcare and pensions because they didn't report their injury.

There are two deadlines you have to meet: you have to file a claim with the WCB *within one year* BUT,

You must also tell the employer “**as soon as practicable.**” If you don't tell your employer for several weeks, months or even just days, the WCB may say that you have failed to meet the requirement of informing your employer, and they may deny your claim. This is really important.

### It is Illegal for your Employer to Try to Force you not to Report

Employers are interested in keeping the WCB rates down, and so bad employers may try to persuade or coerce you not to file a claim, in order to save the company money. But it is illegal for the employer to threaten punishment, or to discriminate against you for filing a claim or for warning about an unsafe workplace. The following actions against workers, for exercising their rights, are expressly prohibited by s. 150 of the *Workers' Compensation Act*.

- suspension, lay-off or dismissal,
- demotion or loss of opportunity for promotion,
- transfer of duties, change of location of workplace, reduction in wages or change in working hours,
- coercion or intimidation,
- imposition of any discipline, reprimand or other penalty, and
- the discontinuation or elimination of the job of the worker.

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<sup>1 1</sup> Its legal name is still Workers Compensation Board of BC. When the Liberals came to power they largely dismantled many of the safeguards and benefits for injured workers. As part of that attack on workers' rights, they started to call it “WorkSafeBC” which, in our view, shifts the emphasis for safety to workers rather than where it should be, with employers. When they rename it “SafeWorkBC” we'll go along.

So always report. If you don't report, or if you wait too long to report, you may never be able to get Workers' Compensation coverage for an injury or disease that was caused by your work.

## **Reporting to the WCB**

The WCB has a system that allows injured workers to call a toll-free number and talk to a WCB employee who fills out the claim form for you. All too commonly we see Teleclaim forms which have been improperly filled out and which do NOT reflect what the worker says she/he told the Teleclaim clerk. If you want to fill out your own claim form you can get the *Form 6, Application for Compensation* online at:

<https://www.worksafebc.com/en/resources/claims/forms/application-for-compensation-and-report-of-injury-or-occupational-disease-form-6?lang=en>

If you have questions about filling out the form or what to expect once you've filed a claim, you may want to call your union or the Workers Advisors Office which can be reached toll-free at: 1.800.663.4261

## **Back Strains / Repetitive Strain Injuries / Soft Tissue Injuries**

A large percentage of injuries appear to be small or insignificant at the time they occur. It's not usually the catastrophic injuries, resulting in crushed limbs or amputations that have the problems early on. The WCB can hardly deny that you've lost your leg! But they can, and often will deny that your back pain, tendonitis or sore neck or elbow etc., is related to anything that happened on the job.

For soft tissue injuries the most common problem in getting the claim accepted is where a worker has had previous or ongoing problems with, for example, her back, shoulder or elbow, etc. but a particular incident has made the pain much worse. For example: reaching out to grab something away from your body, slipping and almost falling but twisting your back or a limb, lifting and turning at the same time, or having a piece of equipment that is malfunctioning and causing you to use more force than normal. Even just having extra volume that day that made you work harder and faster can be enough. Any of these situations can be considered a "specific incident" for the purposes of getting a claim accepted by the WCB.

It is much simpler to get a claim accepted if there was a "*specific incident*" that caused the pain (or made it worse). In these cases, *it is vital to tell the WCB about the specific incident* that caused the pain or made it worse even if you had previous pain in the same region. The WCB will ask you whether there was anything "different" about your job or the way you were doing your job at the time

of the injury. Any change in your working conditions may have been enough to turn those pre-existing symptoms in to a disability. Think carefully about what you say to your doctor as well. Anything you say to your family physician or the Emergency Department doctor will go down in the doctor's notes, which the WCB will obtain; so if you are just trying to think about where the problem started, thinking out loud to the doctor may result in incorrect information being written into his or her chart notes and may create real obstacles to having your claim accepted.

### **Create a Paper Trail**

Always think in terms of what you will need in the worst-case scenario, that is: if your claim is denied and you end up having to do a WCB appeal. Filing reports, seeing your doctor, making notes to yourself, keeping a calendar of doctor's visits, shifts worked and days when your symptoms were particularly bad. This will help document your claim and will also help refresh your memory when it is time to give evidence in your appeal. Evidence made at the time of the injury and symptoms (such as your calendar or diary notes) have much greater weight than your evidence a year later when you are just trying to remember.

### **Working if you are Injured**

In this system, stoic people, and workers with a very strong work ethic, who just keep going to work in pain, always fare worse. Going to work injured packs a double-whammy. Not only may your condition continue to get worse if you don't take the time to get proper treatment, but the WCB will take your attendance at work as *proof that there is nothing wrong with you*. The WCB has a hard time believing that people work when they are injured.

### **Take Your Injury Seriously.**

Go and see a doctor right away. If treatment is recommended or if your doctor tells you to take time off work, do it! Don't wait so long that by the time you get treatment it is just too late, and you will never fully recover. We see this happening to injured workers all the time.

### **Modified duties**

Most employers nowadays will immediately give an injured worker a "modified duties" form to take to the doctor. These forms will describe various light or modified duties that the employer can offer and ask the doctor if you can do any of them. If you don't take this form to the doctor the WCB will probably deny you benefits, even if there is no dispute that you are injured. In WCB world, the fact that your doctor says you should not work is often just not good enough. So, take the form to the doctor, *but discuss the duties described in it with him or her*, to make sure they understand what is being asked.

Continue to see your doctor regularly. Get your doctor to send regular reports to the WCB.

### **If Your Claim is Denied, APPEAL**

If you have a work-related injury or occupational disease and the WCB denies your claim, you have the right to appeal. If you don't appeal, you may live to regret it.

All too frequently we hear the same story: "I only missed a day or two of work, so I didn't think it was important enough to bother appealing."

It is always important enough to appeal. If you do not appeal and then start to have similar problems later on, you will be considered to have a "non-work-related pre-existing condition." If, for example, you had tendonitis in your right wrist and filed a claim, which the WCB denied. You may find that the symptoms are minor – although you have to protect that wrist now when doing your work. During a particularly heavy shift your wrist flares-up again, this time disabling you for several weeks, or maybe requiring surgery. If you did not appeal the prior denial of your right wrist claim, the WCB is likely to simply say that your pre-existing condition has flared-up and that it is not related to your work duties. That will mean another appeal and one that may be harder to win.

Do not underestimate the importance of appealing that WCB letter which denies your claim or cuts you off benefits or refuses to give you a pension. It is all appealable.

**Always err on the side of caution when dealing with the WCB. If you question what they tell you, talk to your union or the Workers' Advisors Office. It may save you a lot of grief later on.**



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