

A victory for permanently disabled workers

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Because of a permanent workplace injury in 1999, I was awarded a partial disability pension from the Workers Compensation Board in 2001. My condition has since worsened.

I have heard from my occupational health and safety steward that WCB benefits have been severely curtailed under the BC Liberal government. Is this true? Should I apply to have my pension reassessed, or do I risk losing what I already have?

And what happens when I turn 65? I read that previously-injured workers turning 65 will now have our WCB pensions cut off.



Although the BC Liberals have drastically cut WCB benefits since 2001, the Supreme Court of British Columbia handed a rare victory to injured workers in May that reverses some of these cuts.

Among the many cuts to Workers Compensation benefits that the Liberals brought in shortly after coming to power, one of the most drastic was to change pensions for permanent disability. They took away pensions for life, ending them at age 65. They also reduced them to 90 per cent of net earnings, rather than 75 per cent of gross wages, which is a significant reduction. To add insult to injury, they also "claw back" 50 per cent of Canada Pension Plan Disability pensions from those who are the most seriously disabled.

Those who had pensions before 30 June 2002 were not affected by these cuts. However, many people who have WCB pensions for permanent disability suffer a worsening of their condition as they grow older.

Those with disability pensions have always been allowed to apply to the WCB for reassessment in order to have their pensions increased to reflect their increased disability.

However, the Liberal government-appointed Board of Directors of the WCB changed the rules. The new rules meant that anyone with a pension from the old system who had suffered a deterioration of their condition after 30 June 2002, and had to be reassessed, would have that increased amount of their pension fall under the new system, thus taking away all those benefits they previously would have received.

The case that won in the courts in mid-May (*Cowburn v. WCB of BC*, 2006 BCSC 722) concerned a Mr. Cowburn, who is dying of asbestosis which he contracted working in a pulp mill years ago. He had previously been awarded a 28 per cent disability pension by the WCB, but in recent years his disability had worsened.

Mr. Cowburn was re-assessed, and the WCB found he was now 59 per cent disabled. The problem for him was

that he was then 65, which meant that under the new rules his benefits would be cut off. So, as Mr. Cowburn's increased pension fell under the new rules, he wasn't going to get one penny more than his original \$800 a month.

Mr. Cowburn challenged this. The BC Supreme Court sided with him, saying that denying Mr. Cowburn his increased pension was unfair.

The court said that the WCB could not refuse to cover pensions from the old system just because they wanted to save money. They told the WCB that its policy was "patently unreasonable" and that the policy could not stand.

The Cowburn case shows that we must keep fighting unfair policies and provisions under the Workers Compensation system brought in by the Liberals.

While HSA continues to represent individual members with particular disputes with WCB, part of our work as a union must also be to work to reform an eroded workers compensation system.

Injured workers deserve protection and compensation, not continual cuts in an adversarial system. 
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