

Some of the Accomplishments of the Injured Worker Movement in Ontario

From 1983 to 2019

It seems that when we speak out and stand up for our rights, we win some concessions. We have been doing just that for the last 30+ years and here is a bit of a summary of our history.

The Thunder Bay & District Injured Workers Support Group was founded in 1984 in response to pending Workers Compensation Act legislation that was designed to take away our pensions. To understand where we are at today it seems fitting to review our history and some of the struggles we have fought over the years. This report will tell that story and conclude with our present campaigns and future challenges for the group.

Our Story

1983 - Parliamentary Committee holds hearings at Queen's Park on changes to the Workers Compensation Act (WCA). Three to four thousand injured workers show up. The Committee moves out onto the lawn at Queen's Park as there is no room big enough to fit everyone. The Bill Davis Conservative government has second thoughts about taking away pensions and injured workers retain their pensions.

1984 – Thunder Bay & District Injured Workers Support (TB&DIWSG) is formed. We hold our first public meetings and present a brief to the Parliamentary Committee holding hearings on Bill 101. Due to all the activism across Ontario, Bill 101 drops the plan to eliminate pensions and brings positive changes to the Workers Compensation Board (WCB) including an independent appeal body – Workers Compensation Appal Tribunal (WCAT) , The Industrial Diseases Standards Panel (IDSP), and the Office of the Worker Advisor (OWA).

1985 – Injured Workers win annual full cost of living increases (COLA) to their pensions.

1986-87 – TB&DIWSG tour NW Ontario providing information to injured workers and helping to start four local injured workers groups (IWG).
- Thunder Bay gets a regional office of the Workers' Compensation Board(WCB). Injured workers can now meet their adjudicators face to face.

1988 – TB&DIWSG holds a provincial conference at the Prince Arthur Hotel. Eight Injured Worker Groups attend and talk about forming a provincial organization.

1989-90 – The number of Injured Workers Groups (IWGs) across Ontario grows steadily to sixteen. Provincial gatherings are held in Sudbury, Niagara, Toronto and Hamilton. IWGs work together to oppose the Liberal government's Bill 162 that changes from a pension system to a wage-loss system. Workers presently receiving a WCB pension get to keep it but future injured workers are subjected to the new dual award system (NEL & FEL) based on "deeming".

- TB&DIWSG helps host a national conference. A national group is formed, the Canadian Injured Worker Alliance.

1991 – Ontario Network of Injured Workers Group (ONIWG) is formed with 20 IWGs as members. TB&DIWSG has strong representation on ONIWG's Board of Directors. ONIWG is successful in getting their representative, Steve Mantis, appointed to the WCB Board of Directors.

1992-94 – ONIWG with its community and labour partners has a campaign to promote pension supplements for injured workers receiving pensions who are unemployed. The result is 20,000 more injured workers get the "older worker" supplement of about \$5,000 per year. This amounts to \$100,000,000 per year for the most vulnerable injured workers. Many of these workers are still getting the supplement today. We are beginning to get a picture of what is happening to the newly injured workers. 78% are unemployed and getting on average a 30% benefits payment through Future Economic Loss (FEL) benefits.

-ONIWG and the Thunder Bay group receive core funding from the Ministry of Labour. The number of local groups in ONIWG grows to over 30.

1995 – At the urging of injured workers, the NDP government brings in Bill 165 which gives unemployed pensioners another \$200 per month (annual cost of approx. \$100,000,000) but introduces the "Freidland" formula which reduces the cost of living protection for injured workers.

1996 – Harris Conservatives are elected and promise to eliminate entitlement to chronic pain. Injured workers come under attack.

1997 – Days of Action comes to Thunder Bay on April 28, the National Day of Mourning for workers killed and injured on the job. TB&DIWSG works with labour and community partners. The day begins with a funeral procession 5 kilometres long winding through Thunder Bay and a very large gathering at the CLE grounds.

1998-99 – ONIWG works to stop Bill 99, the Conservative government's changes to the WCA that further reduce the cost of living protection and restricts benefits for injured workers. Despite our efforts, Bill 99 becomes law.

- TB&DIWSG begins lobbying for more health & safety protection for young workers, working with a local MPP to introduce Bill 10, "the young worker protection act". ONIWG launches a community campaign to maintain coverage for chronic pain under WCB, now named the Workplace Safety and Insurance Board (WSIB).

2000–2001 – The government creates the Young Worker Health & Safety Advisory Committee with Ross Singleton from TB&DIWSG representing injured workers. The high school curriculum changed to include Occupational Health & Safety education and a major advertising campaign is launched targeting young workers.

- Following public hearings, the government agrees that "chronic pain is a real disability and should be treated as any other disability", another victory for Injured Workers.

2002-03 – The Conservative government plans to eliminate the Appeal Tribunal (WSIAT), the final level of appeal, and create a "mega-tribunal" which would remove the focus from injured workers. ONIWG launches a campaign to save the WSIAT including a major march down University Avenue in Toronto on June 1st. The government backs down on its plans.

- ONIWG gains intervener status at the Supreme Court of Canada on a case from Nova Scotia where injured workers with chronic pain are being discriminated against. Injured workers pack the court room and the case is won. The Supreme Court orders the Nova Scotia government to change the law and treat injured workers fairly.

- The Conservative government cuts funding for ONIWG and TB&DIWSG. The WSIB starts a funding program for IWGs with restrictions on their political action. A number of IWGs leave ONIWG to access the new funding, but not Thunder Bay Injured Workers Support Group. TB&DIWSG holds its first two-day Injured & Disabled Workers Clinic with 150 people in attendance.

2004 – ONIWG launches a campaign to restore full cost of living protection for injured workers. Province-wide demonstrations happen on June 1st and November 30th. TB&DIWSG meets with the Minister of Labour in Thunder Bay asking him to restore balance to the WCB/WSIB. Community and labour supporters host the successful Platform for Change conference to help ONIWG. Four new groups join ONIWG. TB&DIWSG conducts outreach on occupational disease; helping workers poisoned at the Dryden construction project. Our group presents a brief at public hearings on occupational disease and holds the second annual two-day clinic for injured workers, this time with a focus on occupational disease.

2005 – TB&DIWSG getting more local media coverage on injured workers issues.

- Small improvements for injured workers happening in policy at the WSIB.
- Canadian Institute of Health Information reports that injuries to young workers have dropped by 45%.
- WSIB makes positive changes in how they handle occupational disease claims.
- We win one of our long time demands to stop the WCB/WSIB from deducting CPP Disability benefits from WSIB benefits.
- We gain entitlement to maintenance (long term) therapy with the WCB/WSIB paying the shot.
- The WSIB reversed their decision to cut back clothing allowance benefits.

2006 – ONIWG becomes partners in a new project – the Research Action Alliance on the Consequences of Work Injury (RAACWI). It's a community – university alliance with six universities involved with the injured worker movement.

- we continue to press for annual cost of living adjustments (COLA) and fair benefits for long term injured workers.

2007-08 – The Liberal government finally responds and brings in a 7.5% increase over two years for injured workers on long term benefits. RAACWI starts a speaker's school for injured workers in Toronto. A speakers' school starts in Thunder Bay sponsored by the TB&DIWSG in partnership with other social justice groups.

2009 – RAACWI forms a partnership with the WSIB to eliminate the stigma of injured workers caused by the process at the WSIB. Another small increase is granted to injured workers.

2010 – WCB/WSIB under attack – part of the austerity agenda. Fewer injured workers getting long term benefits.

2011-12 – Continued shift to cost containment. Increasing solidarity between injured workers groups and organized labour. Fight back campaign gaining strength. ONIWG launches Justice for Injured Workers newspaper and Chain of Shame. Growing links with academic researchers.

2013 – ONIWG & partners host international conference celebrating 100 years since the Meredith Report – founding of WCB in Ontario.

2015 - The legislation amended the [Workplace Safety and Insurance Act](#) to eliminate statutory minimums paid for survivor benefits. Instead, the survivor benefit will be based on the average earnings of the deceased at the time they were diagnosed.

- The legislation was also amended to protect workers against employer interference/reprisals when filing a claim to WSIB. The maximum fine for corporate employers was increased to five times the amount, and if the employer is convicted under the WSIA they will face a fine of \$500,000.

- Beginning January 1, 2018, the amendments would provide all injured workers and their survivors with full Consumer Price Index indexation on the benefit amount.

2016 – Toronto Star newspaper run a long series of articles about how injured workers are being mistreated.

2017 – Entitlement to mental stress expanded.

2018 – ONIWG intervenes in Supreme Court of Canada hearing that confirms that workers' compensations boards must defend workers' human rights.

In Unity there is Strength

As you can see, we have won some and lost some struggles over the years. When we have lots of support from injured workers, our families, supporters in unions and legal community and now connections in universities, we can win with real benefits to injured workers.

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<http://injuredworkersonline.org>

<https://thunderbayinjuredworkers.com>

<https://www.crwdp.ca>

The Meredith Principles

There are various ways of articulating the Meredith Principles. However articulated, they rest on the Historic Compromise that gave both sides financial security which can be summed up as:

Employers would be protected from lawsuits by injured workers and be able to calculate payments as a cost of doing business.

Injured workers would receive prompt benefits for as long as the disability lasted in a non-adversarial system.

More specifically the Meredith Principles are:

No Fault

No need to prove the accident was the employer's fault, no extra charge to the employer.

Non-adversarial

An inquiry system, based on benefit of the doubt that "seeks to compensate," and cannot be challenged in court. No blame.

Compensation for as long as disability lasts

Worker can depend on security of benefits based on lost wages and promptly paid. The injured worker was not to become a financial burden on their family or the community.

Employer pays

Employer pays the rates because the costs can be passed on to others (in prices of goods and services, and in wage negotiations.) Meredith noted that workers cannot pass the cost on and pay in other ways, including some level of lost income despite the compensation.

Collective liability

Employers pay into single accident fund and do not suffer financial consequences from the cost of a specific accident.

Independent Public Agency

Set up to be a non-partisan organisation to administer claims and assessments. Meredith indicated the system was to provide "full justice" not "half-measures," to the injured worker. The early wcb had a motto: Justice and Humanity Speedily Rendered

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Scandal of Injured Worker Unemployment The Hidden Truth

From the ONIWG Research Action Committee
February 23, 2018

Injured and Disabled Workers with serious, permanent disabilities regularly end up unemployed with little or no benefits from the WSIB. Most of them return to work after their initial injury but often this employment is not sustainable.

Here is an analysis of the WSIB performance in recognizing actual wage loss and employment outcomes experienced by seriously injured workers with permanent disabilities versus the WSIB deeming process.

15,203 – 23,930 serious/permanent injuries per year that are recognized by WSIB with a Non Economic Loss (NEL) award (schedule 1 & 2 combined).¹

2,814 - 3,429 serious/permanently injured workers (who receive a NEL award) received a long term locked in wage loss benefit ²

¹ WSIB website on March 23, 2015 – Statistic Supplement to the 2013 Annual Report – covering from 2009 - 2013

² WSIB website on March 23, 2015 – Statistic Supplement to the 2013 Annual Report – covering from 2009 – 2013 [drawing on data from a freedom for information request November 2014, these numbers are slightly larger ranging from 3897 to 4526 workers who receive a locked in benefit.]

Ballantyne's research³ found :

- only 55% of workers with a NEL are back to work 54 months' post injury or 45% are unemployed and experiencing full wage loss
- 68.8% of injured workers with a NEL experience an average \$13,500+ annual wage loss
- and 42 % are "poor or near-poor".

Tompa's research found at 10 years post injury:

- approx. 42% of workers with a permanent disability have recovered their employment earnings
- 58.3% of workers with a permanent disability (NEL) experience significant wage loss 10 years post injury.⁴

Only 14 – 18.5 % of workers with serious, lifelong injuries who have a work related permanent disability (a NEL) are receiving wage loss benefits 72 months after injury⁵ and yet over 58% are experiencing significant wage loss long term.

Along with the significant financial losses experienced by many injured workers, far too many workers experience mental health problems as the research by Fergal O'Hagan demonstrates.

O'Hagan's research reports: "The findings paint a troubling picture of the mental health of injured workers with permanent impairment. The general prevalence of mental health conditions in the sample is of concern, with more than one third of the sample reporting five out of nine mental health diagnoses or conditions; almost 50% reported symptoms of depressed mood and problems concentrating; and somewhat greater than half of the sample had CES-D scores above the suggested cut-off for clinical depression." ⁶

³ Poverty status of worker compensation claimants with permanent impairments (2015) in Critical Public Health - Ballantyne et al

⁴ Labour-market Earnings Recovery Following Permanent Impairment from a Work Injury, Presenter/Principal Investigator: Emile Tompa
Policy Research and Action Forum, November 24, 2017

⁵ Determined by dividing the number of people receiving a lock in by the number of people receiving a NEL.

⁶ Mental Health Status of Ontario Injured Workers With Permanent Impairments (2012) -O'Hagan et al - Canadian Journal Of Public Health