

10 Rules for Injured Workers



If you are injured at work the first thing to remember is -**FORGET**. Forget everything you ever learned from the movies about suffering in silence. So here are some rules for every injured worker.

1. Let Everyone Know The Pain You Feel.

It's important to tell people about your pain, even if it only seems minor at the time. Stewards should document and encourage members to talk about workplace aches and pains. This type of corroboration can be helpful at a later stage if your claim is investigated. Be sure to complete the new *LU 353 Member Incident Report of Accident/Injury*. The form was designed for this very purpose.

2. Report Any Incident/Injury Right Away.

You should report the incident and/or accident immediately to your employer. The law says to do this as soon as possible. Make sure the union knows about this too. The employer has 3 days to report a claim to the WSIB using the Form 7. An employers reporting obligation is triggered as soon as a worker has been treated by a health care professional for a work related injury or performs modified work for 7 days.

There are two legal definitions of accident under the law. Chance events are immediate onsets where a worker e.g., trips, stumbles, falls, bangs or is hit. The other type is called a disablement where the injury emerges gradually. Repetitive Strain Injuries or RSIs typically fall into this category (e.g., Carpel Tunnel Syndrome, Golfer/Tennis Elbow, Tendinitis, Rotator Cuff/Overhead Work). Workers are often confused because they did not experience an accident in the traditional sense, but have a work injury. If the injury arises out of work, then under the law it is an accident.

3. Round Up Your Witnesses.

Take note of anyone who saw or was aware of the accident, incident or injury. If there was no accident and the injury emerged gradually, be sure to tell co-workers and your union steward if you are having problems. This is important if the injury is not visible or if there was a delayed onset. Witnesses can corroborate that you

indeed made reference to being injured at work or that an injury arose in the course of employment.

4. Tell Your Union.

Fill out an *IBEW L.U. 353 Accident/Incident Report* and report your injury to your union business representative, steward or call the Union Hall and leave a message with the on-duty business rep. It's important to call the union so there is corroboration, especially if the injured worker is afraid of reporting to the employer.

5. Charge Lost Time to WSIB.

If you genuinely need time off work to heal or recuperate, your lost time should be charged to WSIB. Most employers are aggressive in providing modified work, regardless whether you are fit to *drive to work* and *do the work*. Many times modified jobs are created for the purpose of WSIB rules. Some employers may pay injured workers directly, and the member abandons the claim. Some injured workers are encouraged to go on union disability benefits or EI versus filing a WSIB claim. Remember, it is illegal to fail to report work injuries to WSIB. If a worker fails to report an injury within 6 months from the date of injury, or fails to make a statutory declaration that are filing and electing to claim WSIB benefits, under the *Workplace Safety and Insurance Act*, the WSIB has the authority to deny your claim.

6. Report Recurrences.

If an injury flares up later, report it immediately to your employer, doctor and co-workers. Many recurrence claims are denied because a worker did not receive medical treatment or complain to co-workers from the date of original injury until the flare-up. Particularly if the passage of time is many months or years later. WSIB calls this *continuity of complaint*.

There is a temptation to link today's pain to an old WSIB claim. But as the passage off time increases, the more difficult it becomes to make this link. Bear in mind that just because you have a similar problem today doesn't make it a flare-up of an old injury. Often times the WSIB rules a worker has substantially recovered from the original injury, thus the *Chain of Causation* is broken between today's ache/pain and the old injury. Therefore, workers need to be diligent and register a "*New Injury*", and in the alternative, argue it might be a recurrence. The exception would be where the worker has NEL award (permanent impairment) for

this area of injury.

7. Don't Believe Everything You Are Told.

Don't take the bosses' word as law. Many times employers act as though they are adjudicators and provide opinions on the likelihood whether the WSIB will allow a claim. This is called curbside adjudication. Sometimes our members accept this feedback as gospel. You may also receive information that causes further confusion. If you want straight information, contact the union.

8. Seek WSIB Mediation and/or Ergonomic Services.

If your injury prevents you from returning to your pre-injury job without modification or if there is a dispute with your employer about the suitability of the modified work, request [WSIB Mediation](#). Then contact the *L.U. 353 WSIB Consultant* and the union will coordinate a mediation session. This is a good way to resolve Return-to-Work conflicts. We can also request WSIB to send an [Ergonomist](#) to assess the suitability of modified work and offer the workplace parties suggestions on proper restrictions, rest breaks, solutions and safe work practices. Always be sure a union representative is present when Mediation is scheduled or an [Ergonomist](#) is visiting your work-site.

9. Don't Refuse a Job You Can Do.

The WSIB will make good your losses if you have to take a lesser job with your employer and suffer wage loss. WSIB can deny or reduce your Loss of Earnings benefits if you refuse a suitable job. Remember the golden rule of labour relations - *Obey Now, Grieve Later*. That means comply and let the union appeal the decision.

The WSIB developed a [Functional Abilities Form](#) to facilitate the goal of Early and Safe Return to Work (ESRTW) under the *Act*. It is not logical for an employer to offer a modified job before a workers functional abilities are known. Once an *FAF* is requested and completed, this represents the starting point when the workplace parties can have an informed discussion about return to modified duties. Your health care professional is responsible for determining the timing and your fitness for return to work.

10. WSIB Investigations & Your Right to Union Representation.

[The right to be represented by your union is precious](#). Workers should consult with the union when dealing with the WSIB to ensure your legal and medical

interests are being protected. Members can contact the union by phone, email or fax when developments happen in your WSIB claim.

In controversial claims where information is missing, the WSIB may send out an investigator to gather outstanding information e.g., statement from the injured worker, co-workers, employer and medical information. Injured workers should involve the union during an investigation and tell the WSIB Investigator you want the union involved. These meetings are often times conducted at the Union Hall. If a WSIB investigator contacts you for a statement about an injured worker, you do not need union representation. Please cooperate as the WSIB investigator is gathering information.

For More Information Contact:

Gary Majesky, LU 353 WSIB Consultant

Direct Line: 416 510-5251 email gary_wsib@ibew353.org

