



## Open letter to Minister Jody Carr.

May 5, 2014

Honourable Jody Carr  
Minister Post-Secondary Education, Training and Labour  
Fredericton, N.-B.

Dear Minister Carr,

The Common Front for Social Justice (CFSJ) participated in the process of legislative review of the *Workplace Health, Safety and Compensation Commission Act* and filed its brief on September 20, 2013. In it, at page 8, we stated the following on the subject of the Appeal Tribunal : (translation)

*We insist for a complete right to appeal (the Commission decisions) and for appeals being heard by an independent, tripartite and impartial tribunal. The tribunal must be made up of representatives of workers and employers. These representatives must not be selected by the Commission but rather by recognized and credible organizations within their area or domain.*

We examined the amendments proposed in BILL 73. **In our opinion, all amendments must aim for a betterment of the appeal process to the benefit of injured workers and not it's opposite.**

**Composition.** We strongly believe that workers must have access to a tripartite tribunal made up of workers representative, employer's representative and a chairperson appointed by the government.

The argument made by some that tripartite administrative tribunals are inefficient and a thing of the past is based on ideology. It is not supported by any serious study and limits and attack the right to be heard. The modern and democratic appeal process must provide for representation of the parties and in this case, of employers and workers. The proposed composition is a step backward for workers rather than an improvement.

**Appointment** We oppose the proposal that vice-chairs must be lawyers and members of the Bar sitting alone in judgment. As we mentioned in our brief at page 9 :

*The Common Front for Social Justice (CFSJ) opposes any attempt toward making administrative tribunals more like courts of justice, more intimidating and less accessible. Workers must be able to present their case without the need of a lawyer. The worker who is before the tribunal should be central as it is his or her case which is going to be decided.*

The appeal system must be simple without any undue legalism and must not only provide the parties an opportunity to explain their situation but must also afford them the means to be understood. This requires that the persons who are hearing them collectively possess the experience and knowledge of the context without requiring injured workers hiring lawyers in order to educate the tribunal. The replacement of tripartite tribunals raises further barriers, psychological and financial, impediments to justice for injured workers.

We wish to remind you that the New Brunswick government has committed to the principles of administrative justice developed by the Canadian Council of Administrative Justice. We consider that your proposed amendment contravenes the sixth principle which reads : " [Administrative justice] Should ensure that the dispute resolution process is accessible, affordable, understandable and proportionate to the abilities and sensibilities of users. (We underline)

**Right to be heard.** We strongly reject the antidemocratic proposal which grants to the tribunal president the unilateral power to decide the appeal's method (in-person hearing, video or telephone, paper presentation, etc.). We recognize that the awarding of such discretionary powers may have been motivated by a concern for speed and efficiency but it will absolutely not do justice to injured workers. We however question the method selected and its efficiency for the rehabilitation of the injured worker, among other things. The injured worker who already feels that an injustice was perpetrated because of the manner in which the Commission has dealt with his or her claim will have his sense of injustice and harm intensified by the denial of his right to be heard. This sense of injustice risks compromising the healing, the rehabilitation efficiency and the return to work. **An in-person hearing must be available to all and the opting for an alternative method should occur only with the parties' unanimous consent.**

Honourable Minister, we ask that amendments be made to Bill 73, in order for it to benefit workers as opposed to raising further barriers to justice for injured workers,

Respectfully,

Jean-Claude Basque, Provincial Coordinator

c.c. Political Parties and MLA'S

NB Federation of Labour.

The Common Front for Social Justice is one of the largest democratic and popular organizations in New Brunswick, with close to 75,000 group and individual members. The Common Front brings together individuals as well as local, regional and provincial organizations to work towards the eradication of poverty.