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COCA Update on WorkSafeBC Activities #535 June 18, 2012

The following column from COCA appeared in the Journal of Commerce

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B.C. legislates end to over compensation

View from the Board | Grant McMillan

The issue of the over-compensation of apprentices has been resolved with the passing of new legislation - Bill 14 - that provides for a fair and balanced approach to compensation.

The new legislation comes into effect on July 1, 2012.

Since 2002, the Council of Construction Associations (COCA) has been lobbying for a change to the Workers' Compensation Act to remove the over-compensation of apprentices. COCA's position is that the WorkSafeBC average earnings for apprentices should be calculated on the basis of their actual apprentice earnings.

The over-compensation was originally caused by an amendment in 2002 to the Workers' Compensation Act. The legislation applied to any apprentice in any industry, not just construction; many industries weren't even aware of the change.

As of 2002, Section 33 of the Workers' Compensation Act required that an apprentice be compensated at the journeyman rate if the claim lasted more than 10 weeks. At 10 weeks, WorkSafeBC was required to do a wage rate review.

At this point, the occupational health and safety authority would use the average earnings of a journeyman in the trade, instead of an apprentice.

The result, of course, was a significant increase in compensation payments.

The injured apprentice could actually be paid twice as much while off on workers' compensation, as he earned while working as an apprentice.

There was and is no justification for this doubling of payment. This created a major disincentive to return to work. And, of course, the longer a worker stays off work, the higher the cost to the employer's and industry.

The 2002 legislation also produced an obvious inequity within the workforce.

For example, let's look at the scenario of two people starting their apprenticeships on the same day.

One apprentice has a workers' compensation claim and is off work for longer than 10 weeks. This worker is compensated as if he had been successful in achieving journeyman qualification.

The other worker would remain at the apprentice wage, which is about half the rate.

In the construction industry, it usually takes up to five years to progress from apprentice to journeyman.

In a typical situation, apprentices make \$14.94 per hour and then over four or five years – if they qualify through their training and performance – move to \$33.21 per hour.

However, the old legislation moved the injured worker from the apprentice rate to the journeyman rate after only 10 weeks.

The legislative change affects only the level of payment for wage loss or short-term disability. In the unfortunate case where the worker is permanently disabled from work and entitled to a WorkSafeBC pension, the worker would still receive compensation based on the journeyman rate.

Grant McMillan is the president of the Council of Construction Associations (COCA), which represents the interests of 16 construction associations in B.C. on WorkSafeBC matters. Grant is also a member of the Journal of Commerce Editorial Advisory Board.

The article is available online at:

<http://www.joconl.com/article/id50610/--bc-legislates-end-to-over-compensation>