

**Submission  
No 30**

## **INQUIRY INTO PERSONAL INJURY COMPENSATION LEGISLATION**

**Organisation:**

**Name:** Mr Keith Blanch

**Telephone:** 6761 8979

**Date Received:** 11/03/2005

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**Subject:**

**Summary**

## **SUBMISSION**

### **LEGISLATIVE COUNCIL**

#### **GENERAL PURPOSE STANDING COMMITTEE NO. 1**

#### **INQUIRY INTO PERSONAL INJURY COMPENSATION LEGISLATION**

##### **To be Kept Confidential**

**I am a 60 year old male who injured my right shoulder at work on 11 December 2002. I had been employed by the same company in the food industry for 21 years. During that time I had worked 7 days a week involving anything from 12 to 16 hours straight with an average of approximately 20 hours overtime a week. I was employed as a plant operator which meant that on some shifts you were making product and bagging it off double lifting an average of 280 25 kg bags a shift.**

**On the night of the injury I was tightening a filter press by hand.**

**On 18 March 2003 I underwent an arthroscopic assessment. I received assistance from a Rehabilitation Consultant and on my recovery I resumed work for certain hours a day building up to a 6 hour day.**

**On 11 November 2003 I underwent a right shoulder hemiastroplasty which replaced a section of joint. I again received Rehabilitation assistance and after recovery resumed my employment working 4 hours a day in the Laboratory building up to 9 hours of a 12 hour shift per day.**

**This procedure has not been successful and I am looking at a full shoulder reconstruction.**

**I was still only working a 9 hour day on suitable duties in the Laboratory when I was retrenched on 19 May 2004. I was able to perform those duties totally. I**

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was retrenched before my rehabilitation/recovery had been completed. I was not given the opportunity to return to work on a full time basis.

When retrenched I was handed a letter from Management stating that the Company "would provide outplacement services". I had a Rehabilitation Consultant for a few months which gradually disappeared and have for the past 6 months had no rehabilitation and never any suggestion of retraining. The Act states you are entitled to retraining. Every time I have asked about attending TAFE to do a particular course I have been told that my injury would not permit me to carry out that training, eg, computer training. A month ago another Consultant was employed, with whom I have had 2 interviews, however, I have not heard from her for 2 weeks.

I am at present being paid 80% of my salary under Section 38 but have been advised that after 12 months (ending in May 2005) I may only receive the statutory rate of approximately \$328.00 less tax. I have been assessed by the Insurance Doctor and have been waiting on the Insurance Company to advise my position, however, 3 months have passed without any communication.

I submit that a worker can be injured at work through no fault of their own and they become the victim. You are harassed by both employer and other employees, and become the criminal. After 21 years of service and even though the Company could provide light and modified duties, they were selective. Some workers are permitted to continue on, on light and modified duties, whilst older workers are retrenched. Genuinely injured workers need some consideration as to their future livelihood. They are being discriminated against through no fault of their own. I was happy to continue on doing the work I was doing, but was forced out the door with lots of promises, none of which has happened.

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I was employed in a job earning approximately \$1,300 per week and after the 12 months is up under Section 38 receiving 80% of my salary I am looking at the prospect of being put back to the statutory rate of approximately \$328.00 less tax per week with the loss of a high income through no fault of my own. No one thinks that you might have certain commitments with no hope of meeting them when through no fault of your own your salary drops \$972 a week. You are planning for your retirement down the track and due to injury you are on the scrap heap 5 years prior with your quality of life completely undermined on a limited income.

Under the Act you are required to find employment and the Insurance Company demands that I find employment. I have to apply for at least 2 jobs a month and provide evidence of the jobs applied for, the applications forwarded and the responses received. Out of the 14 jobs I have applied for I have received 5 responses. It is virtually impossible to find another job. Who will employ a 60 year old let alone one who has an injured right shoulder and the Specialists advising another operation.

Why should my quality of life be undermined through an injury whilst at work, cutting my salary to shreds.

I am unable to participate in any sporting activities, everything you do involves your arm. The pain level varies depending on use. Even mowing the lawn causes discomfort.

Keith L Blanch