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You have the right to refuse unsafe work

Fay Clark, CLW, Kenora

The Occupational Health and Safety Act sets forth laws which protect Ontarians at work. The Act gives every worker:

- The right to know about hazards in your job – you must be informed of anything which could potentially hurt you and how to protect yourself.
- The right to participate in keeping your workplace safe.
- The right to refuse unsafe work if you feel the job is likely to endanger you.

The right to refuse work does not apply to peace keepers, firefighters, medically related services, nursing homes, rehabilitation facilities, residential group homes, or in any laun-

dry, food service or technical service used by one of the above if the refusal could endanger someone else.

Before refusing the work the worker must tell the supervisor that the work is being refused and explain why. The supervisor must then investigate the situation immediately, in the presence of the worker and another prescribed person.

The refusing worker can not simply go home after refusing work; they must remain in a safe place until the investigation is complete. If the situation is not cleared, someone must notify a Ministry of Labour inspector. While waiting for the inspector, your employer has the right to

assign some other reasonable work during normal working hours. If no such work exists, the employer can give other directions to the worker.

The supervisor can ask another worker to do the work that was refused. The second worker must be told that the work was refused and why in front of a prescribed person. The second worker has the same right to refuse as the first worker.

If a worker is penalized for reasonably refusing work, a complaint should be filed with the Ontario Labour Relations Board. www.olrb.gov.on.ca.

Ontario Ombudsman 2010-11 Annual Report

Sallie Hunt, Staff Lawyer, Kenora

The Ontario Ombudsman released its 2010-2011 Annual Report in June 2011, highlighting concerns about a lack of transparency and accountability in government organizations. The top three organizations/programs complained about in 2010-2011 were the Family Responsibility Office (FRO), Ontario Disability Support Program (ODSP) and the Workplace Safety and Insurance Board (WSIB).

Multiple complaints about the ODSP office (the Ministry of Community and Social Services) ranged from changes to the special diet allowance to the new standardized assessment process.

Other issues were:

- Complaints that the Ministry would not accommodate people's disabilities by communicating with them by email.
- Denial to families of the Assistance for Children with Severe Disabilities benefit,

which is to assist with the costs associated with a child's severe disability. The Social Benefits Tribunal overturned several of these denials by the Ministry.

- Complaints about delays in processing ODSP applications by the Disability Adjudication Unit.

ODSP was the second most complained about organization in 2010-2011, with 493 complaints made.

HIV and Changes to the Special Diet Allowance

Liz Polischuk, Support Staff, Kenora

One of the many changes to the medical conditions covered by the Special Diet Allowance (SDA) is for those living with HIV.

The new SDA has eliminated the allowance for those who experience 0-5% of unintended weight loss; it now has only two unintended weight loss categories:

- more than 5% but less than 10% of usual body weight - \$191;
- more than 10% of usual body weight - \$242.

During the application period to renew the SDA benefits, there has been some confusion over the relevant time period to be considered for weight-loss, **as a result,**

it is likely that many people living with HIV may have (had) their SDA unfairly reduced or eliminated.

The Ontario AIDS Network (OAN) and the HIV & AIDS Legal Clinic Ontario (HALCO) are taking this issue very seriously. HALCO is actively challenging decisions to reduce or eliminate the SDAs of people living with HIV.

All people living with HIV who have had their SDA reduced or eliminated, no matter what the reason was for the reduction or elimination, should contact HALCO immediately.

There is a **30 day time limit to challenge ODSP decisions,**

however, even if the 30 days have passed, call HALCO immediately, as steps may still be taken to challenge the decisions.

HALCO intake is open Monday, Tuesdays, Thursdays and Fridays from 9am-5pm (eastern), call toll-free 1-888-705-8889 or 416-340-7790 and ask to speak to the caseworker on intake.

HALCO is a specialty legal clinic for persons living with HIV, if you are NOT HIV+, please contact your local legal clinic for any concerns about your SDAs or other issues. For more info about HALCO or the changes to the SDA's, visit their website at www.halco.org.

Our Pamphlet Stands

All three offices of the Northwest Community Legal Clinic carry a large supply of pamphlets relating to areas of law within the Clinic Mandate. We invite you to call or stop into your local office to view the selection.

Residential Schools - Independent Assessment Process

Carol Grosset, OM, Kenora

The *Independent Assessment Process (IAP)* is for Indian residential school survivors who were seriously physically abused or sexually abused by staff members or other students while they attended an eligible school. If your application to the IAP is successful, you will receive a payment in addition to the

Common Experience Payment.

The IAP payment is based on a number of factors, and ranges from \$5,000 to \$275,000.

To apply to the IAP you need to fill out an *Independent Assessment Process Application* form which can be obtained from the website below. The process is complex and can be difficult. It is a good idea to get a lawyer in

private practice to help you with your claim.

For more information on the IAP and how to apply, call 1-866-879-4913 or visit the IAP website at www.iap-pei.ca.

The deadline to apply to the Independent Assessment Process is September 19, 2012.

Rich Poor Gap

The Conference Board of Canada has reported that the gap between rich and poor has widened over the past generation. The average income level of the poorest in Canada increased—after taxes and transfers and after adjusting for inflation—from

\$12,400 in 1976 to \$14,500 in 2009.

However, the gap between the average income of the richest and the poorest grew from \$92,300 in 1976 to \$117,500 over the same period. These figures are part of a multi-year research project comparing

Canada's quality of life with that of peer countries, called **How Canada Performs: A Report Card on Canada.** For more information on the project or to read the Report Card, visit: <http://www.conferenceboard.ca/hcp/default.aspx>.

SPECIAL NOTICE to the GENERAL MEMBERSHIP

of the Northwest Community Legal Clinic Association and the PUBLIC:

Northwest Community Legal Clinic

ANNUAL GENERAL MEETING

Friday, October 21, 2011
7:30 p.m.

Clinic Boardroom – 206 Scott Street
Fort Frances ON
Phone 807-274-5327 / 1-800-799-2485

❖ *Agenda* ❖

- ❖ *Annual Reports of Clinic Activities*
 - *President's Report*
 - *Treasurer's Report*
 - *Executive Director's Report*
- ❖ *MOTION to accept 2010-2011 Auditor's Report*
- ❖ *MOTION to appoint 2011-2012 Auditor*
- ❖ *Election of 2011-2012 Board of Directors*
- ❖ *Other Business*
- ❖ *Refreshments*

~ Everyone Welcome ~



Northwest Community Legal Clinic

Association Membership (April – March)

The NORTHWEST COMMUNITY LEGAL CLINIC invites you to become a member of our Association. As an Association Member you will have the opportunity to become involved in Clinic issues and assist in the selection of the Board of Directors. If you do not wish to become involved, our newsletter four times a year will keep you informed of the Clinic's activities.

The NORTHWEST COMMUNITY LEGAL CLINIC was established on April 1, 2009 and has three offices in Fort Frances, Kenora and Atikokan. The Kenora office (formerly the Kenora Community Legal Clinic) was established in 1977. The Fort Frances and Atikokan offices (formerly the Rainy River District Community Legal Clinic) were respectively established in 1987 and 1988. We are one of 77 legal clinics throughout Ontario which receives its funding from Legal Aid Ontario. The Kenora office is co-located with the Legal Aid Ontario Area Office. The Clinic is managed by a 10 member Board of Directors; the Directors are elected annually at the Annual General Meeting with 5 members representing each district.

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305 Main St. W. (PO Box 1676)
ATIKOKAN, ON P0T 1C0
807-597-2811 Phone
807-597-6697 Fax

APPLICATION FOR ASSOCIATION MEMBERSHIP

April 1 – March 31

I, _____, wish to
Name

Become a new member (*enclosed is my \$1.00 fee*) OR

Renew my annual membership (*no fee*)

of the NORTHWEST COMMUNITY LEGAL CLINIC Association.

Mailing address

Town/City Postal Code

Phone: _____

Date: _____

SEND MY QUARTERLY NEWSLETTER VIA E-MAIL TO:



Print clearly. Advise Legal Clinic of any address change.

You are cordially invited to the

NORTHWEST COMMUNITY LEGAL CLINIC



*Grand Opening
of its new Fort Frances office at
206 Scott Street,*

...with an

OPEN HOUSE

*Friday, October 21st
2:00 p.m. – 4:30 p.m.*

- . tour our new offices*
- . learn a bit about our history*

- . meet the staff*
- . enjoy a snack*

The Northwest Community Legal Clinic was established in April 2009 with the amalgamation of the Rainy River District Community Legal Clinic and Atikokan office, established in 1987, and the Kenora Community Legal Clinic, established in 1977. We are one of 77 legal clinics funded by Legal Aid Ontario, throughout the Province.

~ We look forward to seeing you! ~

Disability Tax Credit

Submitted by Mr. Digby Hunt, a Senior who receives the NCLC Newsletter and is an avid reader as his daughter works at the legal clinic.

A few years ago I had to apply for the *Disability Tax Credit* for my wife Pam. Because of her disability, there were extra expenses relating to her care and I was able to reduce some of these expenses through the *Disability Tax Credit*.

The first step is to obtain the application form for the *Disability Tax Credit*: (<http://www.cra-arc.gc.ca/E/ptbg/tf/t2201/t2201-10e.pdf>). The applicant may need to be encouraged, and, if necessary, helped by a family member to apply. The applicant or helper fills out part of the form, and then asks the family physician, psychiatrist, or physiotherapist, etc. to fill in the part dealing with the actual disability.

If one has not already done so, the applicant should be signing powers of attorney for property and for personal care and preparing a Will. If the applicant is at a stage where the "attorney" needs to take over, the powers of attorney for property and for personal care can be filed with the CRA. This ensures there is someone to take responsibility for making and filing an annual tax return. Many individuals with only a physical disability may not need this extra support. But it is always a good idea to have powers of attorney signed and a Will prepared before they are needed.

In order to qualify for the *Disability Tax Credit*, a disability has to be quite severe, such as requiring help for normal daily activities, such as bathing, eating, dressing – the kind of help that is usually required for someone with more advanced dementia.

About 10 years ago, the *Canada Revenue Agency* (CRA) felt that the criteria used to qualify were being met too easily by physicians and considered that the scheme was being abused. Now it is much harder to qualify and the health care professional should be made aware that much care needs to be taken when filling in the justification part of the application form.

Once completed, send the form to the appropriate CRA processing office. [The processing office for our region is Winnipeg.] Send the form with a covering letter asking that, if approved, the approval be placed on the applicant's file, or if not approved, to advise of the reason, so you can decide whether or not to appeal.

Once approved, it stays on the file and does not need to be resubmitted each year, unless the family doctor indicates the disability may improve within a certain time. In most cases, this is highly unlikely.

It is best to submit the form ahead of the annual tax return, so that it can be processed before the end of the current tax year. Another advantage of applying for the *Disability Tax Credit* before the end of the tax year is that you can then use *Netfile* to submit the actual Tax Return electronically.

For the *Disability Tax Credit*, *Line 316* is found in *Schedule 1* of the *Income Tax and Benefit Return*. The amount that one could enter on *Line 316* on the *Income Tax and Benefit Return* was \$7,239 for the year 2010. This amount changes from year to year, as it is indexed to inflation rate. The actual reduction of income tax payable is only 15% of the total of all *non-refundable tax credits*.

Even if approved late in the year, the full amount is still allowed for that year. I used the credit for only one year, since there are several other ways to get essentially the same amount of tax credit. But, you cannot double dip. There are other credits that may be available, such as for *Eligible Dependent*, *Infirm Dependent*, and *Caregiver*. I will do a follow up report about the other ways, but this requires a bit of research.

Usually, if one of these credits is used, it reduces or eliminates the *Disability Tax Credit*. The amount of income that can be earned before the value of any of these Credits is reduced to zero varies from about \$10,000 to \$18,000. The *Disability Tax Credit* cannot be

claimed, even if form T2201 has been approved, if fees for a full-time nursing home are claimed as a medical expense. Once Pam went to live in a nursing home, I could claim about \$24,000 for nursing home costs. But, I could no longer claim anything for the *Disability Tax Credit*.

Also, claiming the cost for *Attendant Care* as a medical expense can affect the *Disability Tax Credit* amount, in part or in whole. When a person is living in his/her own home, or in a retirement or seniors' home, both the *Disability Tax Credit* and the *Attendant Care Expenses* can be claimed, if they are less than \$10,000. If the *Attendant Care Expenses* are more than \$10,000, then a choice has to be made between limiting the *Attendant Care Expenses* actually claimed, even though they may be higher, to \$10,000 and retaining the full *Disability Tax Credit*, or claiming the full *Attendant Care Expenses*, and, thereby, losing the *Disability Tax Credit*. This requires a calculation once the net income and *Attendant Care Expenses* are known for the year.

Any of the other *non-refundable tax credits*, if claimed, can also be entered on *Schedule 1* of the *Income Tax and Benefit Return*. Also, the total of medical expenses is entered on *Schedule 1*. The actual individual medical expenses are first entered on a work sheet and then transferred to *Line 330*.

The Province of Ontario has an *Involuntary Separation Credit*, which can be claimed if one spouse is in a nursing home and the other spouse still lives in their family home. The application for *Involuntary Separation Credit* is available **only** if the Nursing Home pays municipal taxes. The amount available is quite small and the earned income of one spouse may reduce the claim to zero.

For more information go to the CRA website – Medical and Disability - Related Information - Includes Form T2201 – 2010: <http://www.cra-arc.gc.ca/E/pub/tg/rc4064/README.html>.

Elections and other excitements

Nan Normand, CLW, Kenora

The provincial elections have again raised up the banner of hopefulness for all contenders. Each and every candidate stands on a platform that proposes to bring us into a brighter future. Without candidates to stand and without parties to declare strategies for dealing with societal issues, we would be sitting still in our places wishing for change. We need to support those who take their skills and perspectives forward. We need to be part of the political process that provides us with our legal processes. We need to be the voices that inform our candidates of what is important to each of us within our own communities. The Northwest Community Legal Clinic advocates on behalf of those who struggle in poverty. Here are some of the issues that concern us:

Social Assistance Rates and Processes- Over the summer, the NWCLC has participated in the Social Assistance

Review consultation. Across our region our legal staff worked on a written submission from our own perspective. Good Morning Kenora featured a televised interview promoting public participation in the review. A mother's group attending the Minto Family Child Resource Centre provided their lived experience within the Ontario Works and Ontario Disability Support Program.

Affordable Housing- Making Kenora Home released their community survey on local issues. An amazing 95% of the surveyed public with incomes between \$45,000-\$75,000 reported that their understanding of the issue has increased over the previous five years. This confirms the effectiveness of this advocacy group's which has been facilitated by the Kenora office of the NWCLC.

Disability Applications-The challenges of securing disability benefits under rule

bound regimes continues to be core work of the NWCLC. With the high appeal overturn rate, the Disability Adjudication Unit's decisions need to be reviewed for effectiveness.

High Energy Costs-Although the NWCLC has expanded services to offer intake for the LEAP (Low Income Energy Assistance Program), this is a temporary band aid on an escalating problem. Especially in northern climes, the cost of energy must be affordable. It is as crucial as food and shelter.

As a legal clinic, we are on the front lines of the war against poverty. Beyond what we have done to ensure justice through existing legal processes, we still need to achieve change through law reform. It is in the hands of our community members to take part in our democratic process, to be a voice and to vote.

Northern Health Travel Grant

Sallie Hunt, Staff Lawyer, Kenora

If you have been referred by your family doctor or other qualified health professional to meet with an out-of-town specialist, such as one in Winnipeg or Thunder Bay and have an appointment, or if you have been referred to an out-of-town health care facility, such as a hospital, you can apply for a *Northern Health Travel Grant*. You can pick up the *Northern Health Travel Grant* form from the family doctor who referred you.

You need only one referral for 12 months after the first visit to the specialist or health care facility, as long as the other visits are for follow-up to the same specialist or health care facility. If the follow-up visit is to a different specialist or health care facility, a new referral from your family doctor is required. Please Note: The health care facility has to

be a "designated" one to qualify for the *Northern Health Travel Grant*. Your family doctor or nursing staff should know whether the specialist or health care facility qualifies for you to use the *Northern Health Travel Grant*.

You would also need a referral from your family doctor for a *travel companion*. You are allowed to have a *travel companion* only if you cannot travel by yourself for health or safety reasons. Patients under the age of 16 automatically qualify for a *travel companion*, so it is not necessary for your family doctor to recommend a *travel companion* for a child under 16.

Referring doctors and specialists must sign (stamp or original) the form. The medical specialist must sign the *Northern Health Travel Grant*. It cannot be signed by a nurse, secretary or medical resident or intern that works for the specialist. It will

take a few months to process, so do not forget the signature. You can submit only one *Northern Health Travel Grant*, even if you see several specialists during the same trip.

For more information about the *Northern Health Travel Grant* (NHTG) – See: *Northern Health Travel Grants*: <http://www.ontla.on.ca/library/repository/mon/24003/296545.pdf>
Ontario Ministry of Health and Longer Term Care – *Northern Health Travel Grants*: <http://www.health.gov.on.ca/en/public/publications/ohip/northern.aspx>
Application for Northern Health Travel Grant – *Northern Health Travel Grants*: [http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/GetAttachDocs/014-0327-88-5/\\$File/0327-88E.pdf](http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/GetAttachDocs/014-0327-88-5/$File/0327-88E.pdf).



**Supporting individuals and our community
by providing quality legal services.**

Fort Frances

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www.northwestcommunitylegalclinic.ca

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out on
Facebook!



Office Closures

ALL OFFICES:

Monday, October 10

Friday, November 11

ATIKOKAN:

Thursday, October 20 at 2:30pm;

Friday, October 21

FORT FRANCES:

Friday, October 21

Sub-offices

Red Lake - October 5, November 2, December 7

Ear Falls - October 6, November 3, December 8

CPP Early Retirement & CPP-Disability

Liz Polischuk, Support Staff, Kenora

The decision to apply to collect Canada Pension Plan (CPP) Early Retirement is one that you should carefully consider. For each year that you collect CPP Early Retirement benefits, you reduce your regular retirement benefits by 6%.

That means that if you start to collect CPP Early Retirement Benefits when you are 60, your benefits will be reduced by 30%.

You will receive 70% of the amount at age 60 compared to what you would have received if you had waited until you turned 65. While statistically, it may be better economically to take a pension earlier, there are many factors to consider.

CPP Early Retirement Benefits are taxable. If you have other income, you could be paying higher income tax for CPP Early Retirement Benefits than if you waited until you turned 65 years and qualified for CPP Retirement Benefits.

If you receive social assistance through OW or ODSP benefits, neither program can make you apply for CPP Early Retirement. However, if you do apply for CPP Early Retirement benefits, these benefits are considered income and will be deducted from your OW/ODSP benefits.

You will **not** have any more money to spend.

Also, you will have a smaller CPP Retirement pension when you turn 65 and your OW/ODSP benefits stop.

You could be cut off from Ontario Works benefits, if the amount of your CPP Early Retirement benefits are higher than your social assistance. And then, you could also be cut off from the OW Drug Plan.

If you start to receive CPP Early Retirement benefits and then change your mind, you can cancel them **only** within the first

six (6) months. You would have to repay CPP for all the CPP Early Retirement benefits that you had received.

You can still apply for CPP-Disability after receiving CPP Early Retirement benefits, even if it is more than six months.

HOWEVER, you must be found to be disabled (date of disability) before you started to receive CPP Early Retirement benefits **AND** your date of disability cannot be any earlier than 15 months before your CPP Application for CPP-D Benefits.

These rules are complicated, so if you have any questions, call the legal clinic office closest to you.



Consider the environment...

Please recycle this newsletter!