



NEW ZEALAND COUNCIL OF TRADE UNIONS

Te Kauae Kaimahi



OCCUPATIONAL HEALTH SYMPOSIUM

A Union Perspective



A G E I N G

Distinguishing fact from legal fiction.



IPRC Act Section 26 (2)

- Personal injury may be caused wholly or substantially by a gradual process, disease, or infection
- But



Troy:

- Wrench slips
- Falls
- Slow Recovery
- U/S reveals tear in R/C
- Surgery reveals tendon is “unhealthy”

Is Troy

- Injured or Old?



TROY's diagnosis

- Referral to Dr Orange: stated Troy had
- Developed symptoms affecting his right shoulder when he struck his shoulder against the side of the mechanics pit
- Dr Orange's response:
- ...Further clarification of reported incident should be undertaken.



Troy's diagnosis ...

- Worksite Assessment report
- "Troy stated he was using a long torque wrench when he inadvertently struck his shoulder against the concrete edge of the work pit"



Troy's diagnosis ...

- Dr Blue
- ... torque wrench [was] very large two handed spanner tool which one pulls on with both arms and with substantial force...
700kN : while doing this the sprocket suddenly released from the nut, causing him to fall backwards against the pit... (and) causing sudden isolated structural damage to the tendon.



Troy's diagnosis . . .

- Dr Orange's response:
- "Troys situation is becoming increasingly clouded by compensation issues, and the nature, severity and putative origin for his symptoms are changing with each report."



What the Reviewer thought:

- “There is a suggestion of irregularities in the evidence ... I found “Troy” to be credible. ...[He] has been consistent ...
- The accident details relied on by Dr Orange were misrepresented. Hence the basis of Dr Orange’s findings on causation has to be questioned.



What went wrong?

- Time not spent at the beginning to tease out the details
- Emerging details interpreted as 'changing his story'

An absence of dialogue

Challenges



- It is time to question the age filter in our ACC legislation
- It is time to develop an ongoing dialogue between stakeholders