



Black Lung resurgence: seeking compensation and getting help

Date: Thursday July 14, 2016

A 100% preventable disease, the resurgence of black lung is an outrage. That compensation for sufferers is being rejected should be an affront to us all. Decades after black lung was eradicated from Australian coalfields, the dreadful scourge is back, with eight cases of black lung identified in the last year.

Caused by exposure to coal dust, black lung mostly affects coal miners. This isn't news to anyone – the disease is also known as 'coal workers' pneumoconiosis' and hit Australian workers hard from the 1830s, when coal mining was established in Australia, for the next 150 years.

Under union pressure, Government regulation mandating screening and setting limits for coal dust levels meant the disease was eradicated in Australia in 1980s. A hard fought and important victory for the workers showing black lung isn't a disease anyone should have to live with.

If it's totally preventable, why is it back?

Industry complacency has been putting coal miners in direct danger – that's their words, not ours, with the Queensland Resource Council chief blaming the industry's attitude to monitoring for the re-emergence. The recent Senate Select Committee on Health went further, identifying regulatory failure, industry incompetence and inconsistent risk mitigation as key contributors to the emergence of black lung. This is affecting the lives of workers in Queensland and it's a disgrace.

The CFMEU have been taking the fight to the industry and campaigning hard to ensure that the mining companies are forced to deliver the health and safety that will avoid injury. They are fighting hard to make sure the injury is recognised for what it is and not passed off as being a lifestyle illness of the worker.

The disgrace of it all is highlighted no more than in the case of Percy Verrall who had worked as a coal miner for almost 30 years.

The picture of health across his working life, at 73 he now struggles to breathe. Percy first presented to hospital in 2003 with shortness of breath, chest pressure and a severe cough, all symptoms of black lung. Diagnosing black lung can be difficult, and Percy went undiagnosed for the next four years. Over this time his health worsened, with the full impacts of black lung creeping up on him. In January 2007 Percy finally received a definitive diagnosis, being the first Australian worker diagnosed with black lung in over 30 years. In and out of hospital, and having been out of the mines for over a decade, Percy didn't think he had a claim for workers' compensation.

In January this year Percy applied for compensation to BHP Billiton, his former employer and a self insurer. BHP Billiton rejected the application, claiming it was out of time.

With Percy and the significant support of the CFMEU, Hall Payne Lawyers fought that decision.

The Regulator has come down on Percy's side, finding that Percy's circumstances excused the delay and the limitations for applying should be waived. While BHP Billiton may appeal that decision, the CFMEU and Hall Payne Lawyers will continue to fight with Percy to get him compensation for what he's been through and what he must now live with.

This shouldn't be a battle.

Black lung shouldn't be something we see at all. If it hits you, the last thing you need is a self-interested insurer rejecting your right to compensation. Just as the CFMEU and Hall Payne Lawyers fought for Percy, we will fight for you.

How can you get help?

Hall Payne Lawyers have worked with workers and their unions for years, getting them the compensation they deserve. We act on a no win no fee basis, and have the experience and knowledge relevant to the mining industry to expertly assist anyone affected by black lung.

[Black Lung: What to do if you're showing symptoms](#)

We offer a free initial consultation, and discounted rates, to all CFMEU members. If you are diagnosed with black lung or are seeking review of a decision on compensation, contact your union for a referral to discuss your rights. If you require further information please contact us on [1800 659 114](tel:1800659114) or via our [contact page](#).

Photo Credit: [Solidarity Center](#), 2014.

This article relates to Australian law; either at a State or Federal level. The information contained on this site is for general guidance only. No person should act or refrain from acting on the basis of such information. Appropriate professional advice should be sought based upon your particular circumstances. For further information, please do not hesitate to contact Hall Payne Lawyers.