

Inside this issue:

Are You Under Review? The Ministry of Social Development's Powers of Investigation	2
TAPS Continues Fight on Behalf of View Towers Tenants	3
Staff Changes at TAPS	3
TAPS Fundraiser	5
Sharing the Load	7

DON'T GET ROBBED! STOP WAGE THEFT NOW

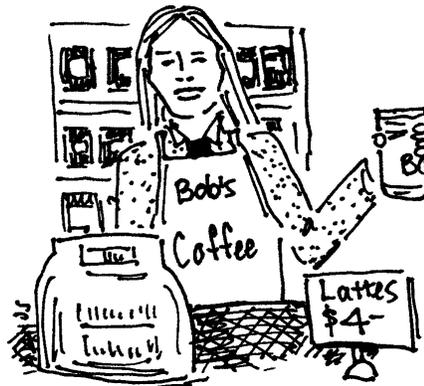
By Jennifer King

TAPS' Employment Standards Legal Advocacy Project (ESLAP) is part of a community movement to empower workers by informing them of their rights and helping them take action on issues like unpaid wages. We advocate for non-unionized workers in negotiation with employers, and guide workers through the Employment Standards Branch complaint process. We use the *Employment Standards Act*, legislation that outlines employers' responsibilities and workers' basic

entitlements to hours and pay.

Wage theft happens whenever an employer fails to pay an employee for their work, makes illegal deductions, or requires an employee to do unpaid work. Sometimes employers deliberately take advantage of workers, and sometimes employers are not aware of their legal obligations.

Like many workers' rights issues, clear up-front communication is the first step in



dealing with potential wage theft. This means having regular conversations with your employer about when you work, how this time will be recorded, and when you will be paid for it. Another strategy is to speak with your co-workers about pay issues and approach your employer together. You can also take

(See Wage Theft, page 4)

**Together
Against
Poverty
Society**

#302 – 895 Fort St.
Victoria, BC
V8W 1H7
Tel: 250-361-3521
Fax: 250-361-3541
www.tapsbc.ca



ARE YOU UNDER REVIEW?

THE MINISTRY OF SOCIAL DEVELOPMENT'S POWERS OF INVESTIGATION

By Thea McDonagh

TAPS has recently seen a significant increase in the number of clients seeking assistance after being informed that the Ministry of Social Development and Social Innovation (the "Ministry") is

conducting an eligibility review of their file. These reviews can be the result of the Ministry becoming aware of some new information relating to a client file. The Ministry can receive allegations of overpayment of assistance or fraud either from external sources, such as calls from the public, or internally through Employment and Assistance Workers (EAWs) or other ministry staff.

Ministry staff must refer all matters of suspected or alleged fraud to the Prevention and Loss Management Services Branch (PLMS). This is a branch of the Ministry dedicated to preventing and/or reducing instances where clients receive benefits they are not entitled to. Typically, once



your file has been referred to PLMS it gets assigned an Investigative Officer who will send you a letter advising you that your eligibility is being reviewed and requesting information from you.

Receiving this letter is often a very stressful and frightening experience for people. It is important to remember that just because the Ministry is reviewing your eligibility does not mean you have done something wrong. TAPS income assistance advocates are able to help if you receive one of these letters.

Here is what you need to know if your file is under review:

The Ministry can collect information regarding your continued eligibility. We often hear from clients that

PERSONS WITH DISABILITIES

TAPS has advocates who can help you apply for PWD (Person With Disability) status through the Ministry of Social Development and Social Innovation. TAPS can also help you with an appeal if you have applied and been denied. Call TAPS at 250-361-3521 for more information. If you are at the appeal stage, be sure to get in touch with us as soon as possible after receiving your letter of denial and tell the receptionist you are calling about a disability appeal.

they feel it is a violation of their privacy or that they don't believe the Ministry should be able to demand this information from them. Although it may feel invasive, the Ministry can, under Section 10 of the *Employment and Assistance Act*, collect information to confirm eligibility.

The Ministry can request information regarding:

- ◇ Your income and assets
- ◇ Your family size and composition
- ◇ Your shelter costs

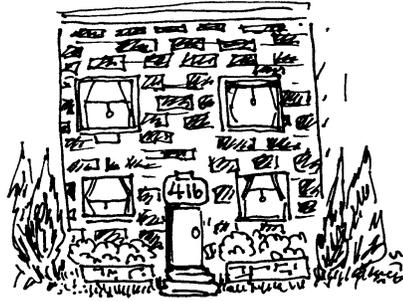
(See *Eligibility Reviews*, page 6)

TAPS CONTINUES FIGHT ON BEHALF OF DISPLACED VIEW TOWERS TENANTS

*By Stephen Portman, Interim
Executive Director*

On January 16, 2015, Together Against Poverty Society (TAPS) filed a petition for judicial review challenging the Residential Tenancy Branch's (RTB) decision not to investigate a landlord concerning its treatment of vulnerable tenants following a fire at View Towers in Victoria.

The fire, which occurred on May 15, 2014, at one of the largest apartment buildings in Victoria, affected vulnerable low-income tenants, including seniors



and people with disabilities, many of whom were displaced as a result.

In September 2014, TAPS asked the RTB to investigate the landlord, Westsea Construction Ltd. (Westsea), for alleged contraventions of the *Residential Tenancy Act (Act)*, including providing

(See View Towers, page 7)

STAFF CHANGES AT TAPS

We are sorry to have to say good-bye to our income assistance advocate Raia Melnyk. Raia worked tirelessly to help her clients get the benefits they were entitled to. Raia is a wonderful, devoted advocate for people in poverty and we will miss her.

We welcome Jennifer Matthews, who has taken over Raia's position. Jen came to TAPS as a practicum student last year, and we are thrilled to have her with us full-time in income assistance advocacy.

We also welcome Zoë Macmillan back after a year away on maternity leave. Zoë picks up her Tuesday and Wednesday income assistance advocacy.



TAPS ADVOCATES

John Cooke Tenant Advocate

Jen King Employment Standards Legal Advocate

Yuka Kurokawa Tenant Advocate and Income Assistance Advocate

Zoë Macmillan Income Assistance Advocate

Jen Matthews Income Assistance Advocate

Thea McDonagh Income Assistance Advocate and Coordinator of the Volunteer Disability Advocacy Project

Stephen Portman Interim Executive Director and Employment Standards Legal Advocate

Ryan Tonkin Federal Disability Advocacy Project Coordinator

Taproot is published bi-monthly. Newsletter artists:

Mitch Lindsay
Joan Stiebel

**Together Against
Poverty Society**

#302 – 895 Fort Street
Victoria, BC V8W 1H7

Tel: 250-361-3521

Fax: 250-361-3541

www.tapsbc.ca

(Cont'd from *Wage Theft*, Page 1)

action through the Employment Standards Branch yourself, or with the help of a legal advocate at TAPS.

Two of the most glaring types of wage theft are outright failure to pay employees, and failure to pay minimum wage. For example, in commissioned sales work an employer is obligated to pay workers at least the equivalent of minimum wage for every hour worked, regardless of sales made. The *Employment Standards Act* says employers must issue pay cheques at least every 16 days (Section 17), and pay workers a minimum \$10.25 an hour (Section 15), or \$9.00 for workers who serve liquor.

When an employer fails to pay an employee or fails to pay minimum wage, this wage theft can have a severe impact on a worker who needs to pay rent and bills and take care of their family. Besides the financial pressure, the power dynamic

that often exists between employers and workers can mean that a worker is uncomfortable asking for what they are owed. Sometimes employers will discourage workers from speaking up by portraying their employment arrangement as a private matter rather than a legal agreement that must meet basic public standards for hours, pay, and working conditions.

Speaking up about issues like wage theft and having community conversations about workers' rights as a public issue rather than a private relationship spreads awareness about employment standards and means that fewer people will be taken advantage of by their bosses. Communicating with your employer and accessing the protections available through the Employment Standards complaint process are your best strategies for getting the pay you are owed and

building a workplace culture where you are respected and employment standards are met. Wage theft is not always so obvious.



TAPS' FEDERAL DISABILITY ADVOCACY PROJECT

TAPS' Federal Disability Advocacy Project can provide information on CPP - Disability, the Disability Tax Credit and the Registered Disability Savings Plan. If you would like to speak with an advocate about any of these benefits, or would like help applying, contact Ryan Tonkin at TAPS at 250-361-3521.

Employers sometimes benefit at the cost of their employees' welfare by coercing them into off-the-clock work. If you have to come in early, stay late, or work without breaks and are not getting paid for this time, you are dealing with wage theft. This might be a situation where you could talk to your employer about adjusting your pay and record of hours so that you are paid for your actual work and any back wages owed, or it may be time to get outside help.

Unpaid overtime is a widespread area of wage theft. If an employer requires you to work more than 8 hours in a shift or more than 40 hours in a week, they must pay you overtime.

(See *Wage Theft*, page 5)

(Cont'd from **Wage Theft**, Page 4)

Section 40 of the *Act* requires employers to pay time and a half for any work beyond these hours, and double time after 12 hours in a shift, not including breaks. You may not be owed overtime if you have a written agreement to average your work hours. If you're not sure, you can call an ESLAP advocate for advice.

Charging employees for business costs and making illegal deductions is another way that employers download their expenses onto workers. Section 21 of the *Act* clearly states that employers cannot charge you for any broken or damaged equipment, supplies, or other business costs. Especially in hospitality and retail businesses, employers will sometimes withhold workers' wages if a customer is not satisfied or refuses to pay. Other employers might require workers to pay for required uniforms, or safety gear or cleaning supplies necessary to their work. Withholding pay for errors a worker makes is also illegal wage theft; for example, charging workers for errors made using equipment like a till or operating machinery. The only deductions allowed under the *Act* for non-unionized workers are for Employment Insurance,

Canada Pension Plan contributions, taxes, and any funds agreed to in writing, such as an employer-sponsored savings plan.

Taking care of yourself on the job and getting your basic right to be paid for your time means watching for these types of wage theft. Make a habit of keeping your own record of hours and compare this to your pay stubs. Check in regularly with your supervisor or employer and co-workers about hours and pay. Good communication can help resolve wage theft issues before they become a drain on your income and work relationships.

If you're losing pay and respect to wage theft, take action! Get help—talk to someone you trust, or call an ESLAP advocate or the Employment Standards Branch. It may be time to start the Employment Standards complaint process, which includes sending a "Self-Help Kit" outlining what you're owed to your employer, then filing a

GINJA LION ART
GINJALIONART.com

TEMPLE MIND STUDIO
templemind.com

INVITE YOU TO

ART FOR TAPS
Together Against Poverty Society

KIM NEWNS  **KIMBERLY DEAN** 

MARCH 25th
7 - 10 pm


Heron Rock Bistro
435 Simcoe St.


Kristina H el ene & Thomas Kinzel

Entry by Donation (\$20) Highly Appreciated

complaint with Employment Standards Online. Check out tapsbc.ca for the June-July 2013 Taproot with our guide to the Employment Standards complaint process.

Contact an Employment Standards Legal Advocacy Project representative at TAPS at 250.361.3521 or eslap@tapsbc.ca for advice and advocacy or for help through the formal complaint process. The Employment Standards Branch can also answer your questions at 1.800.661.3316. You have up to six months after an incident or the end of a job to file a complaint. ■

TAPS' SILENT WITNESS PROGRAM

Many of our clients find that appointments with the Ministry of Social Development and Social Innovation (MSDSI) can be stressful. Some find that having another person at their appointment lessens their stress and helps the appointment proceed smoothly. At TAPS, we have volunteer silent witnesses who can accompany individuals to ministry appointments. If you would like a silent witness to accompany you to an appointment with the ministry, call TAPS at 250-361-3521.

(Cont'd from Eligibility Reviews, page 2)

The Ministry can hold your cheque if you do not provide this information. Typically, after the investigative officer has sent out a letter informing that your file is under review, if they do not hear from you they will send a second letter. If two more weeks pass without contact from you the Investigative Officer will send out a letter advising that they have put a hold on your cheque until you comply with the original letter and provide the information requested.

Your file can be closed. If, a month after your cheque is put on hold, the investigative officer has still not heard from you they will close your file. This is one reason why it is so important to ensure that the Ministry has up to date contact information for you.

You may not be able to obtain all the information that the Ministry has requested. If you have attempted to collect requested information and have been unable to due to circumstances beyond your control, you need to communicate this to the Investigative Officer assigned to your file. For example, the Ministry often requests bank statements; if you do not have a bank account you will be unable to provide the Ministry with bank statements.

You may receive an overpayment. If, after reviewing your information, the Ministry determines that you received benefits that you were not entitled to, they will calculate how much you were overpaid and depending on the amount and whether you have been overpaid in the past, you may:

- ◇ Have to enter into a repayment agreement to

- ◇ repay the overpayment
- ◇ Have your benefits reduced for a specified amount of time depending on the circumstances
- ◇ Face civil or criminal charges

If the Investigative Officer determines that you have been paid over \$5000 in benefits that you were not entitled to, they can refer your file to a Ministry Investigator to determine whether to recommend criminal charges by the crown prosecutor. If a client is charged and convicted of a criminal charge they can receive:

- ◇ A restitution order ordering them to repay the amount
- ◇ A sentence of jail time
- ◇ A lifetime ban from income assistance.

Please note that the vast majority of eligibility reviews are not referred to Ministry Investigators and even less result in criminal charges. If you have received a letter notifying you that your eligibility is being reviewed or you have an overpayment that you disagree with, call TAPS and ask to speak with an income assistance advocate. ■



SHARING THE LOAD

By G. R. Caton

There seems to be more and more people all the time and not enough work to be shared among us, and a large gap between higher wage earners and low wage earners which creates challenges among individuals less fortunate and perhaps disabled in some way to advance in the world.

All people of different ages are still capable of a part-time or full-time job. Many are still employed well into their sixties and seventies.

Amenities, job security, higher wages, all come into play. Families with two working parents and children, too, juggle to schedule their lives, to spend time with relatives and friends.

We all need a break, especially the elders, which leads to better health, better skills and more sharing. ■



TAX CLINIC

TAPS holds a tax clinic for people with low incomes on Thursdays from 9 am to 11 am and from 1 pm to 4 pm. No appointments. First come, first served. We will start doing taxes for 2014 on February 26th at the earliest. During the peak of tax season, we will be able to do tax returns for 2013 and 2014 only.

(Cont'd from View Towers, Page 3)

misinformation about the state of suites and tenants' personal property, coercing tenants into signing agreements to end their tenancies, and failing to provide tenants with access to their personal property. TAPS asked the RTB to impose financial penalties on Westsea if contraventions were found.

The RTB refused to investigate Westsea, finding that tenants could instead file individual dispute resolution applications against the landlord. TAPS' judicial review asserts that sections of the Act allowing for investigations and financial penalties don't depend on the outcome of individual dispute resolution proceedings, and that the RTB therefore made errors when deciding not to conduct

WRITE FOR TAPROOT

Have you had a difficult time getting a benefit you needed from MSDSI? Had a nightmare with a landlord from hell? An exploitative boss? Or some other adventure in poverty, and you want to let others know about it? Then write up your experience for the Taproot. Please make your article 600 words or less. Drop off or mail articles with your name and contact information to Heidi at TAPS at #302 - 895 Fort Street, Victoria, BC V8W 1H7, or send by e-mail to volunteers@tapsbc.ca, or by fax to 250-361-3541.

an investigation. This case is an example of a law meant to protect vulnerable tenants going unenforced. TAPS hopes that the courts will use this unfortunate case to set an example, so that other landlords in BC take their responsibilities under the law seriously.

TAPS is receiving legal support in this proceeding from the good people at the BC Public Interest Advocacy Centre. We cannot thank them enough for agreeing to help us in this important undertaking. ■

ABOUT TAPS

TAPS was established and registered as a society in 1989 and serves the Greater Victoria area. We provide legal information and representation on issues relating to income assistance, provincial disability benefits, residential tenancy, and employment standards. We also provide public education in these areas and on broader poverty issues.

You can reach us between 9:30 am and 4:30 pm, Monday to Friday, by phone at 250-361-3521 or in person at #302 - 895 Fort Street. The office is closed daily for lunch between noon and 1:00 pm and is closed to walk-in clients on Monday and Friday mornings.

TAPS IS FUNDED BY



Province of British Columbia



Provincial Employees

Community Services Fund



United Way
OF GREATER VICTORIA
COMMUNITY PARTNER

The Notary Foundation of BC



and Other Generous Supporters.

TAPS BOARD MEMBERS

President

Joan McHardy

Vice President

Brenda McBain

Co-Secretaries

Barbara Amberstone

Richard Stern

Treasurer

Tony Pullman

Members-at-Large

Marika Albert

Danielle Allen

Bhupinder Dulku

Michel Janisse

Erik Kaye

Hilary Marks

Gail Snyder

Tony Sprackett

BECOME A MEMBER OF TAPS

\$5 unwaged (we can waive this) \$20 waged \$80 organization

Taproot is mailed/e-mailed to members.

Donations are appreciated. Charitable tax receipts provided.

Together Against Poverty Society Membership Registration 2015

#302 - 895 Fort Street, Victoria, BC, V8W 1H7

Annual Membership Fees (Please circle one)

Unwaged: \$5 (we are happy to waive this fee)

Waged: \$20

Organization: \$80

Date: _____

Name: _____

Address: _____ Postal Code: _____

Phone: _____ e-mail: _____

Please send me the newsletter by: regular mail

e-mail

please do not send me the newsletter