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Disabled Nortel employees face a bleak future

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OTTAWA—Earlier this month, forty-seven Conservative Senators killed proposed legislation designed to protect employees on long-term disability — then promptly headed off for an evening of Christmas cheer.

The irony was not lost on the roughly 400 employees of bankrupt Nortel Networks Corp., who have very little to celebrate this holiday season.

That's because their disability benefits run out on Dec. 31, leaving them scraping to get by on a \$12,000 annual federal disability pension — or just about their average drug costs.

"I feel like my government has abandoned me . . . I will be in terrible shape," said Jeri Rodrigs, 42, a former software engineer, whose debilitating arthritis makes it impossible for him to work and forced him onto disability in 2003.

Diagnosed at age 35, Rodrigs has had both his hips replaced, one knee and is to have his ankle replaced.

Going from more than \$40,000 a year in disability benefits to nothing is striking fear in the hearts of many of the recipients, whose drugs costs are said to average about \$12,000 a year.

Rodrigs, a father of two, says if the Conservative Senators had just taken the time to understand their situation, they might have understood the changes were not just for former Nortel employees but would protect anyone working for a company that goes bankrupt.

The bill before the Senate would have addressed the age-old concern that employees fall to the bottom of the list of creditors when a company goes under, often leaving their pension and benefits exposed.

"Under the Bankruptcy Protection (Act), it would have raised them from unsecured creditors up to preferred creditors. It would do it not only for them (Nortel employees receiving disability benefits) but people henceforth facing this kind of circumstance," said Liberal Senator Art Eggleton, who introduced the bill on behalf of Liberal MP Judy Sgro (York West).

Industry Minister Tony Clement told the *Toronto Star* the bill would have retroactively changed the asset priority in favour of long-term disability recipients, even though a deal had been agreed to by their lawyers and set out in a court order.

"Expert testimony before the Senate indicated that a reordering as contemplated in the Bill would have been contested by other debt holders, resulting in years of litigation, and no help to the LTD recipients," Clement said.

As is often the case when governments quash an opposition bill, it claims to have a better solution.

"Our caucus favours real solutions and our government is actively engaged in examining how it can help these former Nortel employees," Clement said.

So what might that be? "Still working on it," he said.

The bill would have improved the chances for employees to get their benefit coverage up to age 65, pay their medical bills and avoid falling into poverty.

"It really made me sad," said Ottawa's Lawrence Clooney, 48, who suffers from chronic fatigue because of chemical poisoning he blames on



Nortel employees on long term disability Carol Sampson, left, and Jeri Rodrigs, right, in Ottawa on Dec. 10, 2010. The two will join the nearly 400 Nortel employees on long term disability who will lose all of their benefits as of Dec. 31, 2010.

Pawel Dwulit/Toronto Star

the workplace.

As much as the Nortel disabled employees are upset with the government, they are also angry with the way they have been treated by the bankruptcy process that often leaves workers battling over scraps.

"It is honestly, the most despicable display of depravity and greed I have ever had the misfortune of witnessing. It's not just one or two people, it's a large number of people, all working together, seemingly unaware that we are actually daughters and sons, mothers and fathers, or even human beings . . . it makes me ill to see humans treat one another like this." Arlene Borenstein, 49, of Ottawa, told the *Star*.

The software support consultant suffers from fibromyalgia, arthritis, and chronic fatigue and is looking at \$10,000 a year in medical expenses.

The Senate bill, which would have protected employees on long-term disability by granting them preferred status during bankruptcy proceedings, was defeated by a vote of 47-44 even though critics say it wouldn't have cost the taxpayers a dime.

The vote was surprisingly whipped by Conservative government. Even Senator Doug Finley, who is battling cancer, was forced to show up to defeat the bill.

The government's steadfast position has Liberals and advocates scratching their heads, given that it was the Conservatives who introduced the Wage Earners Protection Program Act that ensures payment of wages, vacation, severance and termination when an employer becomes bankrupt or subject to a receivership under the Bankruptcy and Insolvency Act.

"It's as if they do see disability benefits as wages," Eggleton said.

In an unfortunate twist of fate, the bankruptcy skirmish has pitted retirees against the Nortel workers on long-term disability over sharing the pie. But Sgro, who has reintroduced her bill in the House of Commons, insists that with \$6 billion in Nortel assets worldwide — \$1 billion of that in Canada — there is enough money to go around.

"We are talking \$60 million of our Nortel's \$6 billion in assets to be allocated for the long-term disabled," she said.

Carol Sampson, who says a neck operation went terribly wrong and now lives in constant pain, said one of a series of blows for Nortel employees was finding out in 2005 that the health benefits plan was not an insured plan but actually one funded by Nortel and directed by Sun Life.

"They never told us it wasn't an insured plan," said Sampson, who has been on disability since 1998.

When she worked at Nortel in design engineering, she even paid extra premiums for additional coverage. Her drugs cost about \$52,000 a year.

Calgary's Jackie Bodie, 42, who suffers from Parkinson's, say her needs are far greater than a few dollars.

The former hardware design technician went on long-term disability in 2005 when her Parkinson's prevented her from working. Her medical costs last year totalled \$17,000, paid for by her disability income.

"The whole reason we are in this mess is because Nortel removed \$75 million from a trust fund designated for disabled employees, which they have no business touching and the trustee of the trust fund failed to stop Nortel from doing this," she said.

Bodie emphasized that what happened to her and other disabled Nortel employees is no sob story.

"This is a story about the fact that a wrong was committed . . . and the broken bankruptcy process allowed that to happen."