

FILING AN APPEAL

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Contact the Appeals Commission

For more information, contact the Appeals Commission for Workers' Compensation

- by calling our office in:
 - Edmonton (780) 412-8700
 - Calgary (403) 508-8800
- by picking up information from our office in Edmonton at:
 - 901, 10109 – 106 Street
 - Edmonton, AB T5J 3L7
- by picking up information from our office in Calgary at:
 - 206, 1701 Centre Street North
 - Calgary, AB T2E 7Y2
- through our website at www.appealscommission.ab.ca

This is one of a series of Practice Guidelines issued by the chief appeals commissioner to help parties who are involved in an appeal to the Appeals Commission. To get other Practice Guidelines, the Appeals Commission's Appeal Rules, or other information, please contact the Appeals Commission in one of the ways described above.

(See other side)

FIRST STEP IN THE APPEAL

A. Who can appeal?

- Usually, a worker or an employer appeals to the Appeals Commission, but anyone can appeal who has a direct interest in and who is dissatisfied with a decision of a Workers' Compensation (WCB) review body about
 - compensation payable, or
 - an assessment, including an administrative penalty.
- WCB review bodies include:
 - The Dispute Resolution and Decision Review Body (DRDRB),
 - The Decision Review Body (DRB),
 - The Claims Services Review Committee (CRSC), and
 - The Assessment Review Committee (ARC).
- Also, anyone can appeal who has a direct interest in and who is dissatisfied with a determination by the Workers' Compensation Board (WCB) about whether a worker is entitled to compensation under the *Workers' Compensation Act* or regulations under that Act.

For more information

See rule 1.3 of the Appeal Rules which reads:

What can be appealed to the Appeals Commission?

1.3(1) Subject to the exceptions described in subrules (2) and (3), the Appeals Commission is given exclusive jurisdiction by section 13.1(1) of the Act to examine, inquire into, hear and determine all matters and questions arising under the Act and the regulations in respect of the following:

- (a) appeals from decisions of a review body about compensation payable under the Act;
- (b) appeals from decisions of a review body about an assessment under the Act, including an administrative penalty;
- (c) appeals from a determination of the Board about whether a worker is entitled to compensation under the Act and the regulations;
- (d) any other matter assigned to the Appeals Commission under an Act or by regulation under section 13.1(1)(d) of the Act.

(2) Two of the exceptions to the exclusive jurisdiction of the Appeals Commission follow:

- (a) section 13.2(11) of the Act authorizes the Appeals Commission, at any stage in proceedings before it, to ask the Court of Queen's Bench for an opinion on a question of law or jurisdiction;
- (b) section 13.4 of the Act permits the Board and any person who has a direct interest in a decision of the Appeals Commission made under section 13.2 of the Act, to appeal the Appeals Commission's decision to the Court of Queen's Bench on a question of law or jurisdiction.

(3) The Appeals Commission has no jurisdiction to decide questions of law involving the *Canadian Charter of Rights and Freedoms* in appeals if the notice of appeal is received on or after April 3, 2006. However, under the *Administrative Procedures and Jurisdiction Act* and the *Designation of Constitutional Decision Makers Regulation*, AR 69/2006, the Appeals Commission may decide questions of constitutional law arising from the federal or provincial distribution of powers under the Constitution of Canada.

And see also section 13.2 of the Workers' Compensation Act.

B. How to start an appeal

- Most appeals must be filed with the Appeals Commission within one year of the date of the decision being appealed. An appeal must be in writing. You can use the *Notice of Appeal* form to make your appeal.
- You can get a copy of the *Notice of Appeal* form on-line at www.appealscommission.ab.ca or from:

Appeals Commission
901, 10109 – 106 Street
Edmonton AB T5J 3L7
Tel: (780) 412-8700
Fax: (780) 412-8701

Appeals Commission
206, 1701 Centre Street North
Calgary AB T2E 7Y2
Tel: (403) 508-8800
Fax: (403) 508-8822

- If you use and properly complete the *Notice of Appeal* form your appeal can be processed quickly. You can also send in your appeal by a letter; however, if you do send a letter, all the information required on the notice of appeal form must be included in your letter.
- If the one year period for filing an appeal has expired and you want to apply for an extension of time for filing your appeal, you must apply to the chief appeals commissioner in writing. It is best to use the extension of time application form, available from the Appeals Commission. You must provide reasons why you are asking for the time extension. The chief appeals commissioner can only grant a time extension if there is justifiable reason for extending the time for filing the appeal.

For more information

See rule 2.3 and 2.4 of the Appeal Rules for more details about time deadlines for filing appeals and extension of deadlines. Rules 2.3 and 2.4 read:

Deadline for appeals to be received

2.3(1) In accordance with section 13.2(8) of the Act, a notice of appeal must be filed with the Appeals Commission within one year from the date that

- (a) a review body made its decision on a worker's claim for compensation under section 46 of the Act, or
- (b) the Board made a decision on an employer's assessment under section 120 of the Act,

unless the time for the appeal is extended under rule 2.4 [[Extending the deadline for filing appeals](#)].

(2) A notice of appeal from a Board determination about whether or not a worker, who is a party to a court action, is entitled to compensation under section 21(3) of the Act is not subject to a one year time limit.

Extending the deadline for filing appeals

2.4 The one year time limit within which an appeal must be filed may be extended under section 13.2(9) of the Act only if the chief appeals commissioner considers there is a justifiable reason for the delay.

- If you want someone to represent you at the appeal you must appoint and authorize them to do so (there is a place on the *Notice of Appeal* form for you to do this if you wish).
- If your contact information changes, you must tell the Appeals Commission.

(See other side)

C. How do I get information for the appeal?

- When you are preparing your appeal you will need the WCB claim or account number and the WCB decision you are appealing.
- If you do not have a copy of the WCB file or WCB decision, you can get a copy –

If you are a worker, you can obtain your file by contacting the WCB's Customer Contact Centre:

- from outside Alberta: (780) 498-3999
- toll-free from within Alberta: 1 (866) 922-9221, or
- by written request by fax: (780) 498-7876

If you are an employer, you can obtain the account file:

- online at: www.wcb.ab.ca or
- by fax: WCB Access to Information at (780) 498-7876

D. How is the appeal filed with the Appeals Commission?

When you have completed your notice of appeal, it must be filed with the Appeals Commission by

- sending it by mail (ordinary, registered or double registered mail)
- sending it by courier
- dropping it off at an Appeals Commission office

in Edmonton
901, 10109 – 106 Street
Edmonton, AB T5J 3L7

or in Calgary:
206, 1701 Centre Street North
Calgary, AB T2E 7Y2

- by faxing the notice of appeal to the Appeals Commission at
Edmonton – (780) 412-8701
Calgary – (403) 508-8822

Note: The Appeals Commission does not accept electronically submitted appeals.

For more information

See rule 6.1 of the Appeal Rules which reads:

Filing documents with the Appeals Commission

6.1(1) A document is filed under these rules when it is received in an office of the Appeals Commission.

(2) A document may be received by the Appeals Commission by

- (a) ordinary, registered or double registered mail;
- (b) fax;
- (c) personal delivery of a document, or by a courier or messenger.

(3) A person who files a document with the Appeals Commission must

- (a) include their name, address, and telephone number and the name and claim number to which the document relates, and
- (b) direct the document to the attention of the Appeals Commission staff member assigned to the appeal.

E. The next step...

- After you send in your appeal to the Appeals Commission, the appeal is usually assigned to an appeals officer. The appeals officer
 - will be your main contact person
 - is responsible for the administrative processing of the appeal at the Appeals Commission.

The appeals officer is not a representative for either party in an appeal but will try to answer any questions you have about the administrative processing of the appeal.

- You will receive a letter from the appeals officer in one or two weeks after you have sent in your appeal. That letter will confirm receipt of your appeal. If you don't get a letter, contact the Appeals Commission.
- The Appeals Commission will obtain your file from the WCB.
- The appeals officer must give notice of your appeal to the WCB and any other person with a direct interest in the appeal. The parties to an appeal usually include the worker, their employer at the time of the accident, and the WCB as provided for in the Act. All parties have a right to participate in the appeal and all information about the appeal will be shared with every party.
- If the appeals officer is absent from the office another officer will be assigned to look after the file.
- The parties to an appeal, other than the appellant, will be sent a *Notice of Intention to Participate* form and this form must be completed and sent back to the Appeals Commission within 14 days of receiving it.

If a party, other than the appellant, does not send in the *Notice of Intention to Participate* form there can be serious consequences for that party.

For more information

See rule 2.12(2) and (3) [*Time limit for response to an appeal*] read:

- (2) If a completed notice of participation prescribed form is not filed in time, or if the person does not apply to extend the 14 day time limit before it expires, that person or the Board, as the case may be, is presumed not to wish to be a party or to participate in the appeal and the Appeals Commission may proceed in the absence of the Board or person without further notice to them.
- (3) A person who is presumed not to wish to be a party under subrule (2) may subsequently apply to be a party under rule 2.14 [[Application to become a party to an appeal](#)].

Let the Appeals Commission know –

- if your address or contact information changes
- if your representative changes
- if you cease to be a representative for a party to an appeal.