

# ADJOURNMENTS, DELAY AND DISMISSAL OF APPEALS

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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](http://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)

## A. Timely proceedings

- The Appeals Commission is committed to processing and deciding appeals in a timely manner.
- The Appeal Rules contain time limits for taking certain steps in the appeal process. A party can apply to the Appeals Commission to change a time period specified in the Appeal Rules and, after checking with other parties, the Appeals Commission will decide if there are good reasons for changing a time period for a step in the appeal process.

### For more information

See rule 1.5 of the Appeal Rules which reads in part:

**1.5(1)** The Appeals Commission may, in a particular case, do either or both of the following:

- (a) waive or vary a time period specified in these rules, whether or not the time has passed or expired;
- (b) waive or vary a rule.

## B. When appeal processing stops

- The processing of an appeal stops if
  - the appellant does not remedy a deficiency in the notice of appeal, or
  - the appellant does not file a *Certificate of Readiness to Proceed* form within 21 days (or any extension of that time) of the date of the Appeals Commission letter forwarding the appeal documents package to the appellant and other parties.

## C. Adjournments

- A party may request the Appeals Commission for an adjournment. After considering the request, the reason for and the views of other parties, the Appeals Commission may grant the request or refuse it. The Appeals Commission may also decide to adjourn an appeal on its own initiative.

## D. Request for an adjournment before a hearing has been scheduled

- A request for an adjournment may be made by an appellant or another party to the appeal. The request must be made in writing and delivered, mailed or faxed to the Appeals Commission to the attention of the assigned appeals officer, and must
  - be sent as soon as the party knows an adjournment is required
  - state the reason for the requested adjournment
  - if the request is made by a representative, confirm that their client has consented to the request
  - be sent to every other party to the appeal.
- Once the written request for an adjournment has been received, the Appeals Commission will consider whether to grant the request, based on the individual circumstances of the appeal, the reasons for the request, and the views of other parties.
- If the request for an adjournment is granted, the Appeals Commission:
  - will send a written confirmation to every party
  - unless the Appeals Commission otherwise directs, the Appeals Commission will not take any further steps to process the appeal until its directions have been complied with.

## E. Request for an adjournment after the hearing has been scheduled

- An adjournment granted after a hearing date has been scheduled results in:
  - wasted resources
  - delay in rescheduling the appeal, which can be substantial
  - substantial delay for other parties waiting for a hearing date.
- The Appeals Commission does not readily grant requests for an adjournment by the appellant once the hearing has been scheduled because
  - the appellant has previously completed the *Certificate of Readiness to Proceed* form indicating they are ready to proceed with the appeal, and
  - the appellant has agreed on the hearing date with the Appeals Commission.
- The request for an adjournment must be made in writing and mailed or faxed to the Appeals Commission, to the attention of the assigned appeals officer, and:
  - must be sent as soon as the party knows an adjournment is required;
  - must state the reason why the party is requesting an adjournment;
  - if the request is made by a representative, confirm that their client has consented to the request for an adjournment, and
  - should state whether the party requesting the adjournment has contacted every other party to find out if they will consent to an adjournment of the appeal. If there is no consent from another party, the Appeals Commission will seek submissions from the other party about the adjournment.

(See other side)

- The factors that the Appeals Commission may consider when a party requests an adjournment after the hearing has been scheduled could include some or all of the following:
  - whether there have been previous adjournments
  - whether the request for an adjournment was made at the earliest opportunity
  - whether reasonable efforts were made to avoid the request for an adjournment
  - whether there are circumstances that could not have been foreseen at the time the hearing was scheduled, for example, a death in the family or illness
  - whether any other party's interests are prejudiced by a delay
  - whether the need for an adjournment is caused or contributed to by the party
  - whether the request relates to a significant part of the hearing, such as the unavailability of a witness.
- The Appeals Commission may conduct a hearing to decide if an adjournment will be granted.

## **F. If the adjournment is granted**

- If the request for an adjournment is granted, the Appeals Commission may give directions or set conditions for the further processing of the appeal.

## **G. If the adjournment is not granted**

- If the Appeals Commission does not grant an adjournment, the parties will be expected to continue with the appeal, including appearing at a hearing if one has been scheduled.
- If the parties or a party does not appear at the hearing after a request for an adjournment has been refused, the Appeals Commission may proceed with an oral hearing or a documents-only hearing, as circumstances require.

## **H. Dismissal of an appeal**

- The Appeals Commission may take steps to dismiss an appeal after there has been no action taken by the appellant for 6 months or more after an adjournment has been granted at the appellant's request, or after 6 months has passed following notice of a deficiency in the appeal that has not been remedied.
- The Appeals Commission will give written notice to an appellant that it intends to consider dismissing an appeal for delay.
- The appellant and other parties will be given an opportunity to make submissions to the hearing panel and the appellant is expected to notify the Appeals Commission:
  - whether they intend to proceed with the appeal, and
  - the reasons why the appeal should not be dismissed.

- After considering any submissions the Appeal Panel will make a decision about the dismissal. The panel may
  - extend the adjournment
  - give directions to the appellant or other parties about processing the appeal
  - refer the appeal to a hearing, or
  - dismiss the appeal.
- If an appeal is dismissed, it means that the appeal ceases to exist at the Appeals Commission.
- The decision of the hearing panel is final.

*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.*