

# THE HEARING AND DECISION

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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)

## THIRD STEP IN THE APPEAL PROCESS

### A. The hearing

The third step of the appeal process is the hearing, either an oral hearing or a documents-only hearing. The Appeals Commission hearing panel deciding the appeal usually consists of a hearing chair and 2 hearing commissioners.

In most cases, the Appeals Commission will schedule the type of hearing requested by the parties. However, in some circumstances the Appeals Commission will determine what type of hearing is appropriate for the appeal. In making its decision, the Appeals Commission may consider such things as:

- whether there are significant factual issues to be resolved
- circumstances that may favour or hinder a participant's opportunity to present their case
- whether there was an oral hearing at the previous level of review
- whether there are issues of credibility to be considered
- whether there are any safety or security issues
- the quantity and nature of the documentary evidence in the appeal documents package
- the number and the nature of any additional documents submitted with the *Certificate of Readiness to Proceed* form
- whether the appeal involves unique or complex issues of law or fact
- whether any or all of the participants are represented.

### B. What to expect at the hearing

#### i) Documents-only hearing

- The Appeals Commission hearing panel will review the documents in the appeal documents package and any other written material submitted by the parties. The panel will meet to consider the evidence, submissions, and responses and will make a decision on the appeal.
- In a documents-only hearing, the parties do not attend or speak to the panel, nor do they present witnesses, or make oral submissions.
- In normal cases, the Appeals Commission will issue a written decision as soon as possible after receiving the final written submissions from the parties.

#### ii) Oral hearing

- The parties appear in person at the Appeals Commission office, or by teleconference call, on the day and at the time scheduled for the hearing. Each party is given an opportunity to present their case and respond to the other party's case.
- The hearing panel will then meet, without the parties present, to consider all of the evidence before they make their decision.
- The procedure for the hearing will be the same if one or more parties are appearing by teleconference.

- The Appeals Commission may decide to have the hearing recorded if a party so requests or may decide to record the hearing on its own initiative. The Appeals Commission may consider the following when deciding whether to record a hearing:
  - extensive or unique procedural matters need to be resolved
  - extensive oral evidence is to be presented
  - a large number of witnesses will give evidence
  - the hearing will be conducted over an extended time period, particularly if there will be gaps between the hearing dates
  - issues of credibility are to be considered
  - the appeal involves unique or complex issues of law or fact
  - written arguments and submissions may be required following the hearing
  - any of the participants have medical conditions that would require reference to a transcript and a transcript is required by the panel to assist during their deliberations.
- If the hearing is recorded, the party or parties will be able to order a transcript after the hearing. Transcripts are prepared by an approved transcription service at the expense of the requesting party, unless the Appeals Commission otherwise decides.
- Parties are not permitted to bring their own recording device into the hearing.

### **C. Decision: oral hearing**

- After an oral hearing, the hearing panel will meet and review all the evidence and consider the matter. The panel will make a decision and provide written reasons for their decision. The decision will be sent to every party.
- The written decision following an oral hearing will be issued as soon as possible, depending on the complexity of the appeal.
- The parties cannot be provided verbally with the decision before the written decision is mailed to them.
- The appeal is complete once a decision has been signed by the Appeals Commission hearing panel.

*(See other side)*

**For more information**

Rule 4.7 of the Appeal Rules describes in more detail what the Appeals Commission must consider when making a decision. Rule 4.7 reads:

***Matters the Appeals Commission must consider***

- 4.7(1)** Under section 13.2(2), (3) and (4) of the Act,
- (a) in considering an appeal from a decision under section 46 of the Act, the Appeals Commission must consider the records of the claims adjudicator and the review body relating to the claim;
  - (b) in considering an appeal from a decision under section 120 of the Act, the Appeals Commission must consider the records and Information available to the review body relating to the matter under consideration;
  - (c) in considering an appeal from a determination of the Board under section 21(3) of the Act, the Appeals Commission must consider the records and information available to the Board relating to the matter under consideration.
- (2)** The Appeals Commission must also consider all relevant evidence submitted by a party that relates to the appeal and that is submitted to the Appeals Commission in accordance with these rules.
- (3)** The Appeals Commission may admit any evidence, including hearsay evidence, that it considers relevant to the appeal, whether or not a court would admit the same evidence. However, the Appeals Commission may decide not to admit evidence that it considers to be repetitious, serves no purpose, or is not relevant.

*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.*