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I. What Next? 6

The Chief Appeals Commissioner has a series of Practice Guidelines to help people who are involved in an appeal to the Appeals Commission. Please contact us for additional Practice Guidelines, *Appeal Rules*, or other information.

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

Edmonton
 1100, 10405 Jasper Avenue
 Edmonton, AB T5J 3N4
 Tel: 780-412-8700
 Fax: 780-412-8701

Calgary
 2300, 801 – 6th Avenue SW
 Calgary, AB T2P 3W2
 Tel: 403-508-8800
 Fax: 403-508-8822

or, through our web site at www.appealscommission.ab.ca

Let us know if:

- your address or contact information changes
- you choose a representative or your representative changes
- you are no longer a representative for a party to or participant in an appeal

A. Who Can Appeal?

Workers' Compensation Board (WCB) review bodies make decisions on compensation and assessment issues.

WCB review bodies include:

- Dispute Resolution and Decision Review Body (DRDRB)
- Decision Review Body (DRB)
- Claims Services Review Committee (CSRC)
- Assessment Review Committee (ARC)

Workers, employers or anyone with a direct interest in a decision made by a WCB review body may appeal that decision to us.

If you are a party to a court action, you may ask the WCB to determine whether any party to the court action is a worker who is entitled to compensation. You may appeal that decision of the WCB directly to us.

B. What Can I Appeal?

Rule 1.3 of the *Appeal Rules* describes what you can and cannot appeal to the Appeals Commission. It provides that we can hear and decide:

- appeals from decisions of a review body about compensation payable
- appeals from decisions of a review body about an assessment
- appeals from a decision of the WCB about whether a worker is entitled to compensation

There are a few exceptions to our jurisdiction:

- We may ask the Court of Queen's Bench for an opinion on a question of law or jurisdiction.
- The WCB and any person with a direct interest in a decision of the Appeals Commission may appeal that decision to the Court of Queen's Bench on a question of law or jurisdiction.
- We have no jurisdiction to decide questions of law involving the *Canadian Charter of Rights and Freedoms*, but may decide questions of constitutional law arising from the federal or provincial distribution of powers.

Section 13.2 of the *Workers' Compensation Act* also has information about what you can appeal. When we receive your *Notice of Appeal*, an Appeals Officer will decide if we can hear your appeal. If you disagree with the Appeals Officer's decision, contact him or her and your concerns will be reviewed by a panel who will make a decision on the matter.

C. Starting an Appeal

Your appeal must be in writing

We recommend you use the *Notice of Appeal* form to submit your appeal. You can download the form at www.appealscommission.ab.ca. You can also get a copy from one of our offices (see page 1 of this guide for contact information).

We can process your appeal faster if you complete the *Notice of Appeal* form properly. An Appeals Officer will determine if your *Notice of Appeal* form contains the required information.

If you choose to send us your appeal by letter, the letter must have all the information required by the *Notice of Appeal* form.

If we need more information or there is an error in your form or letter, we will contact you.

You must send us an appeal within one year of the decision

If you want to appeal a decision, you must send us your written appeal within one year from the date the decision was made. Your right to an appeal will expire if you do not meet this deadline. We will date stamp your appeal with the date it physically arrives at the Appeals Commission.

If the decision was made over a year ago, there are limited circumstances in which we will extend the deadline. If you want the deadline extended, you must apply for the extension in writing and include reasons. *Practice Guideline #4 – Extending Time to Appeal* has more information about extensions.

Rule 2.3 of the *Appeal Rules* contains details about time deadlines for filing appeals and extension of deadlines.

D. Tips for Completing the *Notice of Appeal* Form

Section 1: Contact Information

Fill in the contact information of the person who is appealing. This is usually either the worker or the employer.

We may not be able to process your appeal if we are unable to contact you. Be sure to complete this section as thoroughly as possible. If your contact information changes, it is important that you let us know.

Section 2: Representation

If you want someone to represent you on the appeal you must ask them to agree to do this. To authorize a representative, you must either complete Section 2 on the *Notice of Appeal* form or complete a separate *Notice of Representation* form. The *Notice of Representation* form must include your signature and must be dated within thirty (30) days of being submitted to the Appeals Commission. This gives us the authorization to work with your representative and ensures that the authorization is current.

If you do not have a representative now, you can still choose your representative after you file your *Notice of Appeal*. Check the box that says “I plan to get a representative” and leave the rest of the information in that section blank. Please send us a completed *Notice of Representation* form once you have a representative.

If you have a representative, we will communicate only with your representative, unless circumstances require otherwise. It is the responsibility of your representative to communicate with you.

Section 3: What are you appealing?

Attach a copy of the review body decision you are appealing to the *Notice of Appeal* form.

Section 4: What issues are you appealing?

You must write down the issues you are appealing on the *Notice of Appeal* form. Please be careful about ensuring that all issues you wish to appeal appear on your *Notice of Appeal* form. *Appeal Rule 2.2(3)* provides that once a hearing date is scheduled, we will not accept additional issues of appeal. For more information, please refer to Section A of *Practice Guideline #2 – Getting Ready for the Hearing*.

If you do not have a copy of the WCB file or WCB decision, you can get a copy from the WCB Customer Contact Centre:

If you are a worker:

From outside Alberta: 780-498-3999
Toll-free from within Alberta: 1-866-922-9221

If you are an employer:

On-line at: www.wcb.ab.ca
Fax your request to WCB Access to information: 780-498-7876

Section 5: Do you need an interpreter?

If you need an interpreter, check “yes.” Write the language and dialect you need interpreted.

Section 6: Type of hearing

Choose the type of hearing you believe is appropriate for your appeal. There are two types of appeal hearings:

- documents-only
- in-person

Teleconference hearings are generally conducted only in appropriate circumstances (for example, when you are unable to travel to attend your hearing). If there are circumstances that prevent you from attending the hearing in person, we may allow a teleconference hearing.

In exceptional circumstances, we will determine what type of hearing to hold. For example, if you request a documents-only hearing, we may determine that it is more appropriate to hold an in-person hearing, and vice versa.

1. Documents-only hearing

Participants do not come to this type of hearing in person. The panel makes its decision based on:

- the Appeal Documents Package (ADP) that the Appeals Commission prepares; and
- documents from the participants

We encourage appellants to request a documents-only hearing when:

- the facts of the case are not in dispute
- there are only one or two appeal issues
- the appeal issue(s) do not appear to be difficult
- the submissions are short and can be made in writing
- there is a limited amount of evidence
- the ADP includes most, if not all, evidence

The participants do not need to meet in-person with the panel. As a result, a documents-only hearing can often happen more quickly than an in-person hearing.

2. In-person hearing (including teleconference hearing)

The participants appear before the panel in person, by telephone conference call, or by other means of electronic communication. The panel listens to the participants speak, asks questions, listens to witnesses and reviews documents in the ADP.

We encourage you to ask for an in-person hearing if any of the following applies:

- there are multiple and difficult issues
- credibility of witness(es) is an issue
- the testimony of a witness is important to the appeal

Section 7: Are you ready to proceed?

If you are filing your *Notice of Appeal* but you do not want the appeal to proceed right away (for example, because you are waiting on additional information or a related decision from the WCB, or you are filing to protect your one-year time limitation period), please check the appropriate box. If you are ready for your appeal to proceed, please indicate that you want your hearing to be scheduled.

Section 8: What am I signing?

The person who is allowed to file the appeal must sign the *Notice of Appeal* form. A representative may only sign the form if his or her name appears on the *Notice of Appeal* form or *Notice of Representation* form.

E. Filing Your Appeal

You are ready to file your appeal when:

- you have completed your *Notice of Appeal* form
- you have a copy of the WCB review body decision

Send us your appeal by:

- mail
- fax
- courier, or deliver it personally to an Appeals Commission office (see page 1 of this guide for contact information).

We do not accept appeals by e-mail.

We date stamp the appeal with the date it physically arrives at the Appeals Commission. This is important, because timelines and deadlines begin from this date.

For more information about filing documents with us, please see Rule 6.1 of the *Appeal Rules*.

F. Your Privacy

One of the most important aspects of the Appeals Commission's process is that every participant in the appeal knows the case that is to be heard and has an opportunity to respond. This means that documents related to your appeal will be shared with all other participants in the appeal, including the Workers' Compensation Board. The information collected may also be used for quality assurance purposes (for example, participant satisfaction surveys). If you have any questions regarding the collection or use of your personal information please contact the Appeals Officer assigned to your appeal.

G. The Next Steps

When we receive your *Notice of Appeal*, we confirm receipt, request your claim file from the WCB, and notify the other parties to the appeal. We will send a *Notice of Participation* form to the other parties involved in the appeal. To become a participant, they must complete and return this form to us within 14 calendar days. If a party does not return the form, it may affect their ability to participate in the appeal. This is explained in *Appeal Rule 2.10*.

Once we have confirmed which parties intend to participate in the appeal, we will contact you to set a hearing date.

We assign your appeal to an Appeals Officer. An Appeals Officer:

- is an officer of the Appeals Commission
- is your contact person for any questions about the administrative process of the appeal
- will manage how your appeal is scheduled and structured
- is not a representative of the WCB or any party or participant in an appeal and cannot act on your behalf

If you have appointed a representative, you will not have direct contact with us. Your representative will be the only contact with the Appeals Commission.

Once the parties have been notified and a hearing date has been set, the Appeals Officer assigned to your appeal will send you a letter confirming:

- the issues you are appealing
- the hearing date
- the parties that will participate in the hearing

After we have received your claim file from the WCB, we will send you another letter. This letter will:

- enclose the ADP
- provide information on filing additional documents with us
- confirm the hearing date
- provide further information on processing your appeal

For more information about the time limits for responding to an appeal, please see *Appeal Rules 2.9(2)* and *(3)*.

H. Forms

The following forms apply to this guideline:

- *Notice of Appeal* form
- *Notice of Representation* form
- *Notice of Participation* form

I. What Next?

For information on the next steps in the appeal process, please refer to *Practice Guideline #2 – Getting Ready for the Hearing*.