

Contents

A. **Deadline to File a *Notice of Appeal***.....2

B. **Applying for an Extension of Time**.....2

C. **Filing Your Application**.....3

D. **Processing Your Application**.....3

E. **Who Decides the Application?**3

F. **What Reasons May be Justifiable?**3

G. **What Happens After You Get the Decision?**4

H. **Forms**.....4

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:

<p>Edmonton 1100, 10405 Jasper Avenue Edmonton, AB T5J 3N4 Tel: 780-412-8700 Fax: 780-412-8701</p>	<p>Calgary 2300, 801 – 6th Avenue SW Calgary, AB T2P 3W2 Tel: 403-508-8800 Fax: 403-508-8822</p>
---	--

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. Deadline to File a *Notice of Appeal*

Sections 13.2(8) and 13.2(9) of the *Workers' Compensation Act* address the appeal deadline, as does *Section 2.3* of the *Appeal Rules*.

The general rule is that you must file your *Notice of Appeal* within one year from the date of the decision you wish to appeal, unless you are appealing a decision made under Section 21(3) of the *Workers' Compensation Act*. Appeals of Section 21(3) decisions are not affected by the deadline.

There is an exception for DRDRB decisions made on or after September 1, 2018 and before April 1, 2021 where the appeal must be filed within two years of the decision date.

If you know that your *Notice of Appeal* is late, you can apply to the Chief Appeals Commissioner for an extension of time.

If you file a *Notice of Appeal*, an Appeals Officer will determine if it is within the appeal deadline. You will get a letter if your *Notice of Appeal* is after the deadline.

If your *Notice of Appeal* is outside the deadline, you can apply to the Chief Appeals Commissioner for an extension.

Further to *Appeal Rule 6.1*, a document is filed when it is received by the Appeals Commission.

B. Applying for an Extension of Time

When you apply for an extension of time, you should complete the *Application for Extension of Time* form. If you have not already filed a *Notice of Appeal* form, you must file one with the *Application for Extension of Time* form. You can get a paper copy by downloading and printing a copy from our website, www.appealscommission.ab.ca, or from one of our offices (see page 1 of this guide for contact information). Note that you can also submit the form online through our website.

You may also apply with a letter. The letter must have all of the information that would be on both the *Notice of Appeal* and *Application for Extension of Time* forms.

Your application for extension of time must explain why you have delayed in pursuing the appeal and prove that your reasons are justified. It would not be justifiable if you merely disagreed with the deadline, or if you filed a *Notice of Appeal* previously but withdrew it. Section F of this guideline describes some reasons the Chief Appeals Commissioner may consider to be justifiable.

If an application for extension of time is approved the appeal is not activated unless a *Notice of Appeal* form is also filed.

C. Filing Your Application

You must send both your *Application for Extension of Time* and *Notice of Appeal* forms, with a copy of the WCB review body decision, to one of our offices by:

- submitting the form online through our website
- e-mailing the form to AC.AppealsCommission@gov.ab.ca
- mail
- fax
- courier, or deliver it personally to an Appeals Commission office (see page 1 of this guide for contact information)

D. Processing Your Application

We send a copy of your application and submissions to all parties and invite them to submit a written response within a time period specified by the Appeals Officer.

We will send you copies of any submissions we receive, and you have the option of filing a written reply to the submissions.

When all submissions have been received, we will refer your application to the Chief Appeals Commissioner for a decision.

E. Who Decides the Application?

The Chief Appeals Commissioner or delegate makes the decision about your application.

F. What Reasons May be Justifiable?

Each case is determined on its merits. The Chief Appeals Commissioner will only grant an extension of time to appeal if you prove a justifiable reason for the delay in filing. The Chief Appeals Commissioner may grant an extension of time if you can show, with supporting documents, that more likely than not:

- You showed good faith to appeal before the deadline expired, but for a justifiable reason did not file the appeal within the time limitation period.
- Due to a lack of proper notice, you were not aware of the decision or of the deadline, but when you became aware of it, you took reasonable and timely steps to begin the appeal.
- Someone who should have given you accurate information misled you about what was needed to file an appeal within the time limitation period.
- You reasonably relied on a representative to file an appeal and took reasonable steps to ensure the representative was taking action and, when you became aware that he or she failed to file an appeal by the deadline, you took prompt and reasonable steps to begin the appeal.
- You suffered from a diagnosed mental or physical incapacity that prevented you from filing the *Notice of Appeal* before the deadline.
- The decision was affected by, closely connected with, or depended on a later decision that prevented you from going ahead with the appeal.

The Chief Appeals Commissioner may take into account any factors that affect the merits and justice of the case, including:

- your financial circumstances and the conduct of the parties and participants
- the impact of the decision on the administration of justice (for example, are the reasons for the delay deliberate, malicious, and without good cause, amounting to an abuse of process?)
- whether other parties or the WCB would be seriously prejudiced if the time to appeal was extended
- whether the case being appealed is hopeless or frivolous

G. What Happens After You Get the Decision?

The Appeals Commission will send you a written decision on your application. Under section 13.2(10) of the *Workers' Compensation Act*, this decision is final and cannot be reconsidered.

If your application is granted, and you have not already filed, you can file your *Notice of Appeal* within the period of the extension and we will process your appeal. It is important to note that if the application is granted, the Appeals Commission will not automatically process your appeal. You must still submit your *Notice of Appeal*.

If your application is granted, and you have already filed a *Notice of Appeal*, we will accept the notice and process your appeal.

If your application is denied, we will not accept your *Notice of Appeal*.

H. Forms

The following forms apply to this guideline:

- *Application for Extension of Time* form
- *Notice of Appeal* form