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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 3S4

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. What is a *Notice to Attend* or *Notice to Produce Documents*?

Section 13.1(5) of the *Workers' Compensation Act* gives us the legal authority to require a witness to come to a hearing or deliver documents.

We issue a *Notice to Attend* or a *Notice to Produce Documents* when we believe that a participant needs evidence or documents from a person who refuses to come to a hearing or provide documents voluntarily. We have the legal authority to require a witness to come to a hearing or deliver evidence (such as books, papers, and documents). We can also examine that witness under oath.

B. How to Apply

Rule 3.10 of the *Appeal Rules* describes what an applicant must include when applying for a *Notice to Attend* or a *Notice to Produce Documents*.

To apply, please fill out both an *Application for a Notice to Attend or Produce Documents* and a *Conduct Money Worksheet*. The *Application for a Notice to Attend or Notice to Produce Documents* asks you to state the reasons why the notice is required, including an explanation of why a witness or a document is relevant to the appeal. In the case of a notice to produce documents, you are also asked to describe the document in question so that the person who receives the notice is able to identify the requested document without undue difficulty.

You should apply as quickly as possible if a witness refuses to come to a hearing or bring the documents for the hearing. Medical specialists or other expert witnesses may need at least 30 days to clear their schedule. We may adjourn the hearing if the applicant does not give the witness enough notice.

The Appeals Officer will ask a panel to issue a *Notice to Attend* or a *Notice to Produce Documents*. The panel's decision is final. If the panel decides to issue a notice, the applicant must pay all conduct money. Conduct money compensates a witness for their time and expense when they come to a hearing or deliver documents (see Section E). We may adjourn the hearing if the panel does not have time to make a decision on your application prior to the scheduled hearing date.

C. Issuing a Notice

When deciding whether to issue a notice, we will consider if:

- the person receiving the notice has access to the evidence or documents
- the evidence or document(s) could significantly help resolve an issue raised in the appeal (or identify other evidence that could do so)
- the applicant asked the witness to voluntarily appear or deliver the document(s)
- the applicant asked how many pages are in the document(s)
- the evidence or document(s) are not on file
- there is no other way to get the evidence or document(s)

We may refuse to issue a notice if:

- the evidence or documents are not relevant to the appeal
- the reason for the request is insufficient
- the evidence is available from another source
- the applicant:
 - did not ask the witness to voluntarily come to the hearing or deliver documents
 - did not make enough effort to get the witness to voluntarily come to the hearing
 - is not able to provide an estimate of the number of pages in the document

- in the case of an expert witness, the applicant:
 - did not ask what their conduct money was
 - did not make enough effort to obtain the information required

If we issue a notice, the details are given to all parties so that they can prepare their cases.

D. What Information is in a Notice?

We attached sample notices to this Practice Guideline as *Appendix A: Notice to Attend* and *Appendix B: Notice to Produce Documents*. A notice has the following information:

- the appellant's name
- the hearing time, date, and location
- the claim number or the assessment file number
- a detailed description of the documents and the date by which the witness must deliver them
- the name of the person who must come to the hearing or deliver documents
- a warning that the witness may have to come to the hearing for more than one day, or may need to come back at a future date if we reschedule the hearing
- the amount of conduct money the applicant must pay

E. What is Conduct Money?

Conduct money compensates a witness for their time and expense when they come to a hearing or produce documents. The applicant must pay the witness conduct money when the notice is delivered (unless the panel decides otherwise). The applicant can pay the conduct money in cash or by money order.

The amount of conduct money is set by:

- for most witnesses, the *Alberta Rules of Court* (see Schedule B, Division 3 of the *Rules of Court* and the *Public Service Subsistence, Travel and Moving Expenses Regulation*)
- for expert witnesses (like doctors or engineers), their normal rates for coming to a hearing or writing an opinion (contact the Appeals Commission before applying for a notice for information about normal rates for expert witnesses)
- for documents, the Court of King's Bench Taxation Officers' suggestions.

Conduct money for a Notice to Attend includes:

Daily allowance	\$50.00 a day for each day or part of a day travelling to be at a hearing
Meals	Breakfast (if departure time is 7.30 a.m. or earlier, or return time is 7.30 a.m. or later)—\$13.00 Lunch (if departure time is 1.00 p.m. or earlier, or return time is 1.00 p.m. or later)—\$18.00 Dinner (if departure time is 6.30 p.m. or earlier, or return time is 6.30 p.m. or later)—\$28.00
Travel	By car—\$0.570 per km By public transport—reasonable fare actually paid By air—reasonable fare actually paid to regular scheduled air carrier if travel is more than 200 kms
Accommodation	If the witness cannot commute to the hearing, the estimated cost for reasonable hotel accommodation. Or, if the witness prefers private accommodation \$20.15 a night
Expert witness	Normal expert rate plus meals, travel, and accommodation as set out in this table

Under special circumstances a panel may increase allowances to witnesses.

Conduct money for a Notice to Produce includes:

Photocopying	\$1.00 a page for documents required under the <i>Notice to Produce Documents</i>
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F. How is Notice Served?

The applicant is responsible for delivering the notice and conduct money. After we issue a notice, the applicant has up to five calendar days to give the notice and conduct money to the witness. **A notice will not be valid if it is delivered more than five days after we issued it.**

If a witness disputes receiving the notice, the applicant may have to prove it was delivered. Normally, we will accept a legal document called an Affidavit of Service (ask your Appeals Officer for a form) as proof that the witness received the notice and conduct money.

G. How does the Witness Receive Hearing Details?

Once the applicant serves the Notice to Attend, they must contact the Appeals Officer to confirm service and provide the witness' contact information (address, email address, phone number).

The Appeals Officer will provide the witness with the hearing details, including the method of hearing, and information about how to participate.

H. What if the Hearing is Adjourned after Notice has been Served?

If the hearing is adjourned, the witness must attend on the new date. The Appeals Officer will advise the witness of the adjournment. The applicant may need to pay further conduct money.

I. Forms

The following forms apply to this guideline:

- *Application for a Notice to Attend or Produce Documents* form
- *Conduct Money Worksheets*

J. What Next?

For information on the next steps in the appeal process, please refer to *Practice Guideline 3: The Hearing and Decision*.

Appendix A: Sample Notice to Attend



Notice to Attend

Click here to enter text.

Dear Click here to enter text.:

RE: Appellant: Click here to enter text.
Claim/Assessment No.: Click here to enter text.

Your attendance is required for the above mentioned appeal hearing. Sections 13.1(1) and 13.1(5) of the *Workers' Compensation Act*, gives the Appeals Commission legal authority to require witnesses to attend hearings and examine them under oath. As a witness you are required to give evidence which we need to decide the outcome of the appeal. You are entitled to conduct money in the amount of \$ Click here to enter text., payable by cash or certified cheque, which shall be served with this document.

You must attend the appeal hearing on Click here to enter a date. at Click here to enter text. Choose an item., via [method of hearing – teleconference, video conference, in person at the office of the Appeals Commission located at (insert address)].

You must be present every day until the appeal is heard. If the hearing is adjourned, you must come back on the new date.

If you do not come to the hearing as this notice requires, you may face legal consequences.

This notice issued at Choose an item., Alberta on Click here to enter a date.

Per:

Commissioner and Hearing Chair

Appeal Commission
for Alberta Workers' Compensation

Appendix B: Sample *Notice to Produce Documents*



Notice to Produce Documents

Click here to enter text.

Dear Click here to enter text.:

RE: Appellant: Click here to enter text.
Claim/Assessment No.: Click here to enter text.

Sections 13.1(1) and 13.1(5) of the *Workers' Compensation Act*, give the Appeals Commission legal authority to require witnesses to deliver documents for inspection as evidence. You must deliver documents for this appeal, which will be heard on Click here to enter a date., at Choose an item. You are entitled to conduct money in the amount of Click here to enter text., payable by cash or certified cheque, which shall be served with this document.

You must deliver the documents in this list to the applicant, no later than Click here to enter a date.:

- 1.
- 2.

If you do not deliver the documents as this notice requires, you may face legal consequences.

This notice issued at Choose an item., Alberta on Click here to enter a date.

Per:

Commissioner and Hearing Chair

Appeal Commission for Alberta
Workers' Compensation

Conduct Money Worksheet – Notice to Attend

Conduct Money				Rate		Amount
Daily Allowance						
Witness	# of days		X	\$50.00	=	\$
Expert Witness	# hrs		X		=	\$
Meals						
	# breakfasts		X	\$13.00	=	\$
	# lunches		X	\$18.00	=	\$
	# dinners		X	\$28.00	=	\$
Accommodation						
Estimated* cost for a reasonable hotel room	# of nights		X		=	\$
OR Allowance for private accommodation	# of nights		X	\$20.15	=	\$
Travel						
Driving distance	in kilometers		X	\$0.570	=	\$
OR public transportation	Actual cost					\$
OR actual airfare (for distances over 200 kms only)	Actual cost					\$

Conduct Money Worksheet – Notice to Produce

Photocopying						
Pages copied under the <i>Notice to Produce Documents</i>	# of pages		X	\$1.00	=	\$
TOTAL						\$

*Where the estimated costs are lower than the actual costs, the witness should advise the applicant and the hearing panel. The applicant will be expected to reimburse the witness for additional costs.