

Contents

A. If You Appoint a Representative.....	2
B. Expectations and Standards of Conduct for Appeal Participants.....	2
C. Expectations and Standards of Conduct for Representatives	3
D. How the Appeals Commission Will Deal with Unacceptable Conduct.....	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:

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

This guideline sets out the minimum standards of behaviour we expect from representatives and participants, as well as, witnesses and observers.

Because representatives act on behalf of others, we expect them to be role models for those they represent and to guide them in their behaviour.

A. If You Appoint a Representative

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 complete a separate *Notice of Representation* form. These are the Appeals Commission's prescribed forms and we will not accept alternative forms.

The *Notice of Representation* form is valid for two (2) years from when it is signed and dated. When it is submitted with an appeal or application, we are authorized to work with your representative in relation to that appeal or application. It can also be submitted for any number of appeals or applications during the two years it is valid.

If you are appealing on behalf of someone who is deceased, you must prove you are authorized to act on behalf of the deceased's estate.

When a representative stops representing you

As soon as your representative stops representing you on an appeal or application, you or your representative must notify us and every other party in writing. (See *Appeal Rule 1.9*)

Appeal Rules 1.7, 1.8, and 1.9 deal with appointing a representative.

B. Expectations and Standards of Conduct for Appeal Participants

Act honestly

The conduct of a participant should always be characterized by truth and fairness.

Act properly and in a timely way

All participants must meet deadlines for submitting additional documents, filing written submissions and for scheduling hearings.

Be prepared

All participants must be prepared. This includes being familiar with the issue on the appeal, as well as the relevant Workers' Compensation Board (WCB) files and the relevant law, policy, and decisions.

A participant must observe the *Appeal Rules* and Practice Guidelines.

Behave respectfully

All participants must behave courteously and respectfully to the other parties and participants, representatives, witnesses, observers, WCB participants, the hearing panel, Commission staff, and any other people permitted to attend the hearing. All participants must also behave courteously and respectfully in all written correspondence. Respectful behaviour includes enabling our staff to contact him or her easily.

A participant's conduct and demeanour should not be influenced by ill feelings between a worker and an employer, or with regard to the WCB, including previous decision-makers.

Raise appropriate concerns about bias or lack of procedural fairness

A participant who has information that raises reasonable apprehension of bias or conflict of interest on the part of a panel member has a duty to bring that information forward at the earliest opportunity. Allegations of bias must be made in accordance with *Practice Guideline #3A – Protocol for Determining Bias Issues*.

Allegations of bias or conflicts of interest should not be made frivolously or in a way that diminishes confidence in the integrity of the Commission's decision-making. Personal attacks on members or staff are not allowed.

A participant should raise concerns about a possible breach of procedural fairness as soon as practicable. If a participant fails to do so, we may consider them as having waived the right to raise an objection. If the decision has been issued, we may refuse an application for reconsideration on the basis that the participant has waived his or her right. If a participant raises the concern about procedural fairness during the hearing and the panel does not accept it, the participant should continue to participate in the hearing. Continued participation will not be interpreted as a waiver.

Respect confidentiality

Information disclosed during the proceedings is confidential. A participant must not use that information for other purposes without the consent of the parties and the WCB (see Section 147 of the *Workers' Compensation Act*).

Do not contact panel members directly

A participant should not try to contact a panel or individual panel member outside the hearing process, unless the panel invites or instructs him or her to do so. A participant should communicate through the assigned Appeals Officer.

A participant must not write to or otherwise contact the panel or a panel member after the decision. Any request for clarification, correction, addendum for a missed issue, or reconsideration application must be sent to our main office, where it will be processed using appropriate procedures.

C. Expectations and Standards of Conduct for Representatives

Act honestly

Representatives must discharge their duties to their clients resolutely and independently. A representative must honestly represent the client and not put forward any information known to be untrue, or knowingly help or encourage a party or participant to be dishonest or misrepresent facts.

Obtain proper instructions

A representative must have proper instructions from his or her client before taking any significant step, including starting or withdrawing an appeal. The representative should be prepared to provide authorization to proceed in the client's absence if the client fails to attend the hearing.

Act properly and in a timely way

Representatives must meet deadlines for submitting additional documents, filing written submissions, and for scheduling hearings. A representative should not represent a client unless he or she will be able to provide such representation in a timely fashion.

Know the Appeal Rules

A representative must observe Appeals Commission's *Appeal Rules* and Practice Guidelines and take appropriate action to ensure that their client observes the same.

Guide the client on appropriate conduct

A representative's conduct should at all times be characterized by candour and fairness. The representative should maintain toward the Appeals Commission a courteous and respectful attitude and insist on similar conduct on the part of their client. A representative should instruct his or her client and witnesses about appropriate conduct in a hearing and in written correspondence. He or she should also inform his or her client and witnesses that they are required to be courteous and civil to all hearing participants, including the panel and staff. A representative must take the necessary steps to prevent clients and witnesses from disrupting a hearing.

Be aware of the rules of conduct and adhere to them at all times

A representative must behave courteously and respectfully to the opposing party and their representative (if present), to any witnesses called during an oral hearing, to the panel hearing the appeal, and to Appeals Commission support staff. A representative must also behave courteously and respectfully in written correspondence, including submissions. Respectful behaviour includes representatives conducting their business affairs so as to enable Appeals Commission staff to contact them easily.

A representative's conduct and demeanour toward any other representative in the case, or toward the Appeals Commission panel should not be influenced by ill feelings between a worker and an employer, or between the client (or the representative) and the Board, including previous decision makers.

A representative should instruct their client and witnesses about appropriate conduct in a hearing and in written correspondence, including telephone conversations and written submissions, and the requirement for courtesy and civility to the panel as well as any opposing representative and their client.

A representative should not engage in personal attacks on members, Appeals Commission staff, or other parties or their representatives.

A representative must respect the confidentiality of information disclosed during Appeals Commission proceedings and not use that information for other purposes without the consent of the parties and the WCB (see section 147 of the *Workers' Compensation Act*). Failure to comply with confidentiality requirements may lead to remedial actions as listed below.

Following an Appeals Commission decision, a representative must not write to or otherwise contact the panel concerning the decision. Any request for clarification, correction, addendum for a missed issue or reconsideration must be made on the appropriate form and sent to the Appeals Commission Intake Officer where it will be vetted and channelled appropriately.

D. How the Appeals Commission Will Deal with Unacceptable Conduct

The Appeals Commission may address unacceptable conduct at any time during the processing of a matter. Unacceptable conduct may be addressed either orally and/or in writing and either directly with a participant or through his or her representative.

The Chief Appeals Commissioner or delegate will deal with unacceptable conduct while an appeal is being processed through the Commission. Where a panel has already been assigned when the inappropriate conduct occurs, the hearing panel Chair will deal with it.

The panel assigned to a hearing or pre-hearing process may make orders or give directions necessary for the maintenance or enforcement of these rules. If a representative fails to comply with the rules, the panel may:

- impose restrictions on a representative's continued participation in or attendance at a proceeding;
- exclude a representative from further participation in or attendance at a proceeding;
- refer the issue to the Chief Appeals Commissioner.

In any situation where the Chief Appeals Commissioner or delegate deems that remedial action is required, the representative subject to such action will be:

- informed of their breach of the rules, either orally or in writing;
- provided an opportunity to address the breach, either orally or in writing; and
- informed of any subsequent decision, complete with reasons for the decision, either orally or in writing.

Any such decision is in keeping with the Appeals Commission's statutory control over its own processes (see section 13.1(3) of the *Workers' Compensation Act*).

In addition, the Appeals Commission may:

- report the inappropriate behavior to the Law Society;
- apply to the court to enforce any such restrictions.