

In Focus

The Newsletter of the Workplace Safety and Insurance Appeals Tribunal

Letters of Intent

During the first six months of 1998, the Tribunal has received several thousand letters stating a general intent to appeal decisions of the Board made before January 1, 1998. These "letters of intent" state that the appellant does not wish to proceed with any appeal at the present time. The letter is for the purpose of retaining the right to appeal in light of the limitation periods imposed by the *Workplace Safety and Insurance Act, 1997*.

These "letters of intent" do not identify any specific decisions of the Board or the parties of record for those decisions. Letters have been received both from workers, purporting to appeal all pre-1998 decisions of the Board with respect to their claims, and from employers, purporting to appeal all decisions respecting numerous employees who have claims with the Board.

The Tribunal has placed these appeals in Inactive Status, in accordance with its Practice Direction on Inactive Status. The Practice Direction provides that an appeal may remain in Inactive Status for a six-month period and that an appellant may request an extension of time.

Because of the general nature of the letters, the Tribunal has not been able to give notice to parties of record of these appeals as required by section 125 of the Act. Section 125(1), (2) and (3) read as follows:

125(1) A worker, employer, survivor, parent or other person acting in the role of a parent under subsection 48(20) or beneficiary designated by the

worker under subsection 45(9) may appeal a final decision of the Board to the Appeals Tribunal.

(2) The person shall file a notice of appeal with the Appeals Tribunal within six months after the decision or within such longer period as the tribunal may permit. The notice of appeal must be in writing and must indicate why the decision is incorrect or why it should be changed.

(3) The Appeals Tribunal shall promptly notify the Board and the parties of record of the appeal and the issues to be decided on the appeal and shall give them copies of any written submissions made in connection with the appeal.

The requirement to give notice to parties of record is placed upon the Tribunal by the Act. There is no parallel requirement in the Act placed on the Board with respect to appeals to the Board's internal Appeals Branch.

In order to fulfil the requirements of the Act, the Tribunal is writing parties and requesting that an Appeal Application form be completed identifying the decisions under appeal and the other interested parties for those decisions, in order that notice of the appeal can be given. The Appeal Application Form must be completed before the Tribunal will consider granting the appeal an extension of time in Inactive Status. If the Application Form is not received within a reasonable time (approximately 12 weeks, subject to reasonable extensions in specific circumstances) the appeal will be referred to a Vice-Chair or Panel in accordance with the Practice Direction, who may decide if the appeal will be dismissed for lack of action or make any other order.

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This is consistent with the Tribunal's handling of files in Inactive Status that are not "letters of intent", but for which no Appeal Application Form has been received.

In any event, all decisions about whether letters of intent have met the requirements of the Act and are in compliance with the time limits will be subject to adjudication by the Vice-Chair or Panel when the matter proceeds to be adjudicated.

Time Limits

If an appeal is received outside the six-month time limit set by the *Workplace Safety and Insurance Act, 1997*, the appellant will be required to make application for an extension of time. Notice of the application will be given to the other parties potentially affected. A Vice-Chair or Panel will consider the written submissions of the parties about the reasons why the appeal was late and about whether an extension should be granted, and will determine if the time will be extended. An oral hearing will not be held unless so ordered by the Vice-Chair or Panel.

Tribunal Members

The following members were recently reappointed for three-year terms:

Part-time Vice-Chairs

- **Faye McIntosh-Janis**
effective May 14, 1998
- **Janice Sandomirsky**
effective July 1, 1998

Full-time Employer Members

- **Susan Copeland**
effective June 15, 1998

Part-time Employer Members

- **Gerry Howes**
effective August 1, 1998
- **Gerry Nipshagen**
effective June 15, 1998

Part-time Worker Members

- **Jim Anderson**
effective May 4, 1998
- **Doug Felice**
effective May 14, 1998
- **Mary Ferrari**
effective May 14, 1998
- **Peter Klym**
effective May 14, 1998
- **Dave Timms**
effective May 4, 1998

Tribunal Toll-Free Number

Effective August 21, 1998, callers from outside the Greater Toronto area can also reach the Tribunal at its new toll-free number:
1-888-618-8846.

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