



WSIAT

In Focus

March 2000

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The Newsletter of the Workplace Safety and Insurance Appeals Tribunal

Report from the Executive Director

Since June 1999, the Tribunal has been involved in a number of projects to decide how best to process its backlog. Pilot projects on file screening, co-mediation, and early resolution formed part of this effort. In September and October 1999, we met with worker and employer representatives and groups throughout Ontario to explain these projects, and to receive ideas about backlog reduction.

The Tribunal evaluated the results of these pilot projects at the end of 1999. These showed that the pre-hearing screening of files under the direction of a Vice-Chair

Registrar (VCR) has the potential for earlier resolutions, earlier hearing dates, and greater numbers of hearings completed. The results also showed that co-mediation by panel members is a very successful approach to dispute resolution.

Office of the Vice-Chair Registrar (OVCR)

As a result of the experience with the pilot project, the Tribunal Assembly agreed that the Office of Vice-Chair Registrar would continue and take over the processing of the majority of appeals. This includes initial processing, screening, and streaming files to Tribunal Counsel Office, and ADR.

An important aspect of the OVCR is the Call Centre. In order to more accurately reflect the duties of the Call Centre staff, the Tribunal has decided to change this name to the Registrar's Information Centre. The Registrar's Information Centre receives files from the Registrar's teams once the file is activated in Scheduling. It also answers party inquiries and administers the file prior to the hearing date. Please note that the focus is now on completing file work before the file is sent to the Registrar's Information Centre. Therefore, it is crucial that representatives respond

promptly to requests from pre-hearing legal workers as they occur.

Co-Mediation

Co-mediation was offered to parties by a team composed of two Members, a Member representative of the worker community and a Member representative of the employer community. Cases were chosen from the inventory of WSIAT appeals in which appellants have pre-selected ADR.

The Tribunal now has four trained and experienced Member Co-mediators and 5 Vice-Chair volunteers assigned to hear the Co-Mediators' report and issue a decision, if appropriate. Agreements and decisions have been reached for over 60% of the mediated appeals. Of the remaining number, some were placed in Inactive status in order to complete the file for mediation or hearing, and one went to hearing on a discrete issue.

The Tribunal has found this process to be highly effective. Party response to the project was extremely positive. Tribunal Members were able to work effectively as a team and enjoyed their mediation role with the parties. The Members mediated a wide variety of issues and worked successfully with both represented and unrepresented parties.

Tribunal Assembly recently agreed to the continuation of Member Co-Mediation as an ongoing method of alternative dispute resolution at the Tribunal.

Tribunal Counsel Office (TCO)

The Tribunal Counsel Office is now comprised of lawyers, articling students, legal workers, the post-hearing department and the Medical Liaison Office. It no longer has carriage of the majority of

the Tribunal caseload. The TCO will focus on appeals which raise complex or novel medical, legal and policy issues.

Alternative Dispute Resolution (ADR)

The Tribunal welcomes two new mediators to its ADR team, increasing its number of legal worker mediators, known as Early Resolution Officers, to four. This team will continue to mediate appeals where the parties have selected alternative dispute resolution. On-call mediation services have been used with success by a few Panels and Vice-Chairs. ADR will increasingly concentrate on initial processing of complex cases to achieve better preliminary issue identification, including investigations prior to hearing.

Community Outreach

The Tribunal's Community Outreach Tour visited 15 cities between September 14th and October 21st, 1999. We appreciated the assistance and partnership of the Office of the Worker Adviser and the Office of the Employer Adviser in the organization and implementation of this program. Also, the feedback offered by discussion participants is gratefully acknowledged, as is their willingness to work together as we jointly pursue these initiatives.

Productivity and Inventory Reduction

Thanks to the hard work and dedication of Tribunal staff and adjudicators, the Tribunal exceeded its production targets for the last quarter of 1999. That quarter represented the first major challenge in terms of increased targets outlined in our caseload strategy plan. The Tribunal recently reported to the Ministry of Labour that its active inventory has been reduced by 600 appeals. Some of these gains were accomplished through a review of the Tribunal's case inventory and then disposing of cases already targeted for closure. Most notably, files that were not ready to proceed to hearing were placed in Inactive Status pending resolution of the outstanding matter(s).

Ongoing Developments

The Tribunal has established a Rules Committee to review its new processes and identify where new rules are required and how to modify the existing rules. For example, the Practice Directions will be reviewed to clarify areas where the Office of the Vice-Chair Registrar has assumed duties from the Tribunal Counsel Office. Guidelines will generally confirm how appeals are identified for the main hearing stream, for a written hearing, for the Tribunal Counsel Office or for the ADR team.

Rules will be created to outline the role and process of the OVCR. For instance, the OVCR is asking parties to file materials, confirm witness lists and the issues under appeal prior to scheduling a hearing date. This process will continue.

The OVCR then screens the file and sends the parties a letter indicating whether the appeal is hearing ready. The letter considers such matters as:

- Jurisdiction;
- outstanding decisions or issues at the Board;
- appropriate presence of related claim files;
- identifies evidentiary problems; and
- confirms witness information on file.

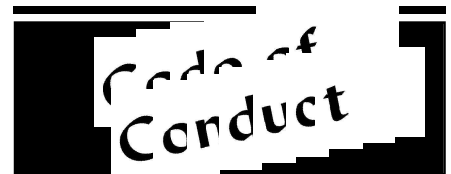
Once a hearing ready letter is sent to the parties a two-week waiting period is initiated during which a party may phone the OVCR if the information in the letter is incomplete.

If there is agreement about the contents of the letter, the Tribunal is generally able to schedule the appeal within three to four months. However, the availability of the hearing date and the amount of time allotted for the hearing are based on the information in the letter. If this information is altered prior to the hearing date, in breach of the agreement in the letter, the hearing date will probably be adjourned and the file may be placed in Inactive status until the hearing ready status of the file is reconfirmed.

Board File Certification

In an effort to acquire a complete copy of the Board materials at first instance, the Tribunal and the Board have created a document titled *Whole Person Adjudication*. A central purpose of this document is to streamline the flow of materials between the Tribunal and the Board. For instance, based on the material in this document, the Tribunal will now be receiving all related claim files with the claim under appeal. This saves considerable staff time when processing the appeal.

Any documents mentioned in this article may be acquired by contacting the Tribunal's Publications Department at (416) 314-8800 or 1-888-618-8846. If you are interested in further information regarding the contents of this article, please contact the Office of the Tribunal Chair.



In August 1999, the Tribunal released its *WSIAT Code of Conduct for Representatives* (the Code). It sets out standards of conduct to which representatives appearing before the Tribunal are expected to adhere and remedies for failure to comply with those standards.

In December 1999, the Tribunal released its Practice Direction: *Code of Conduct for Representatives* (Practice Direction). It provides more detailed guidelines as to the steps that the Tribunal will take when there is breach of the Code during the hearing or pre-hearing process.

The Code is available from the Publications Department at no charge. A copy of the Practice Direction now will be attached to each copy of the Code.

The Practice Direction also has been added to the package of practice directions which is available from the Publications Department at a cost of \$10 (\$10.70 with GST).



Full Text of Tribunal Decisions on CD-ROM

This year, we are pleased to offer a new service, **WSIAT Decisions On CD-ROM**. This CD-ROM contains the full text, together with summaries, of Tribunal decisions since the inception of the Tribunal in 1985. The CD-ROM will be updated quarterly. The service is not a searchable database. Rather, it is a collection of the Tribunal's decisions. You can select and open individual decisions to read or print. It is an excellent complement to our Decision Digest Service binders or DDS On Disk. You can search one of these summary services to determine the decisions of interest to you and then use the WSIAT Decisions On CD-ROM to read or print the full text of those decisions.

WSIAT Decisions On CD-ROM is now available for a one-time fee of \$250 plus \$125 for the updates for the year 2000, for a total in the first year of \$375. The price is reduced to \$325 if you also subscribe to any of our other publications. Renewals in future years will be based on the price for updates only.

To order WSIAT Decisions On CD-ROM, please contact the Publications Department.

Medical Discussion Papers

The following new discussion paper from the Medical Liaison Office has been added to the Library's collection:

Industrial dust exposure & chronic obstructive airways disease (1999) by Muir, David Charles F. (9p). Cost: \$3.80 plus G.S.T.

Two existing discussion papers have been renamed.

Symptoms in the contralateral upper extremity is now:

Symptoms in the opposite or uninjured arm. (1999) by Harris, W. Robert (9p). Cost: \$3.80 plus G.S.T.

Limping is now:

Symptoms in the opposite or uninjured leg. (1996) by Harris, W Robert (15p). Cost: \$5.00 plus G.S.T.

The cost shown is the charge for purchasing the items. Alternatively, you can photocopy these discussion papers at the Library for 15¢ per page.

Neutral Citation Standards

Starting with decisions released in the year 2000, the Tribunal has adopted the Neutral Citation Standard (NCS) developed by the Canadian Citation Committee of the Canadian Judicial Council, for use by courts and administrative tribunals.

Previously, a committee of the Canadian Judicial Council developed standards for preparation of judgments in electronic form. Those standards included the paragraph numbering that we have included in the Tribunal's decisions. The NCS follows from this. With the NCS, the court or tribunal assigns a permanent citation at the time a decision is released. It provides a uniform and unique way to identify a decision wherever that decision may be found.

The NCS does not replace the decision numbers of Tribunal decisions; rather, it provides a cite that can be used for a uniform reference.

A full NCS cite consists of the style of cause (for the Tribunal, the Decision No.) and the core of the citation (year of

release, Tribunal identifier and ordinal number). Our Tribunal identifier for NCS purposes is ONWSIAT (the two-letter postal abbreviation for Ontario followed by the initial letters of the Tribunal's name). The ordinal number is assigned at the time decisions are released, starting with "1" each year.

The core of the NCS cite can be found in the top left corner on page 1 of Tribunal decisions released in 2000.



Since our last issue of WSIAT In Focus, the following members have been appointed:

Full-time Vice-Chair

Martha Keil
re-appointed effective
February 15, 2000

Eleanor Smith
effective February 1, 2000

Part-time Vice-Chairs

Michael Farago
Ruth Hartman
Karen Koch
Sophie Martel
Rosemarie McCutcheon
Gail Morrison
Sean Ryan

effective October 6, 1999

Leo Jordan
effective October 8, 1999

Tony Silipo
effective December 2, 1999

David Fleming
Brian Wheeler
effective January 7, 2000

Deena Baltman
Bev Caddigan
effective February 16, 2000

Full-time Member representative of workers

Angela Grande
effective January 7, 2000

Part-time Member representative of employers

Doug Jago
effective January 7, 2000

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