

In Focus

The Newsletter of the Workplace Safety and Insurance Appeals Tribunal

MESSAGE FROM THE EXECUTIVE DIRECTOR Zeynep Onen

The Tribunal to Date

The Appeals Tribunal continues to work at a high rate of activity, to reduce the inventory of old cases, and introduce new process for new appeals. While much of the Tribunal's achievements to date in meeting its inventory targets are certainly due to the hard work of its staff and OIC appointees, we have also greatly appreciated the patience and contribution of representatives and parties. When asked to participate in new programs and projects

during this backlog reduction period to try and improve our case process, parties and representatives have consistently shown tolerance and provided useful and constructive advice to help improve the proposals. We very much appreciate this contribution to improved process provided by the injured worker and employer communities.

What follows is a quick snapshot of our activities in the last few months to bring you current information on the status of the Tribunal's work.

The Tribunal's Inventory Reduction Project

During the fall of 2001, the Tribunal continues with its two-year inventory reduction project. The Tribunal began its backlog reduction commitment to the Ombudsman in October 1999 with an accumulation of about 9,000 cases. By contrast, the appeals inventory will be at approximately 4,600 by September 30, 2001, and the Tribunal remains on target with this project. It is expected that by March 2002, the Tribunal's inventory will be current, with the exception of those cases which, due to complexity or other unique circumstances, cannot be heard and decided sooner.

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Notice of Appeal Application Process

We are pleased to provide further information about our new Notice of Appeal application process, which came into effect on March 15, 2001, after extensive consultation.

The Appeals Tribunal developed this new process with input from the injured worker and employer groups during consultation meetings throughout the province. The purpose of the new process is to provide

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Service Enhancements to WSIAT Web site

Increased User Services

In March 2001, the Tribunal launched a new and updated version of its web site at www.wsiat.on.ca, offering users service enhancements which include access to online decision research, online "fillable" forms, and increased access to information about the Tribunal's appeal processes.

WSIAT Decision Database Access on the Web

One of the key features of the new site is its online decision search function. The web site home page now contains a "Researching Decisions" link that allows users to conduct key word searches within the Tribunal's database of over 25,000 decisions.

Decision summaries and the full text of decisions can now be accessed and printed from remote locations. Guidelines for researching the Tribunal's decision database are also available on the web site. As a result of this easy-to-access service (which makes full text Tribunal decisions available free of charge) the Tribunal's

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Alternative Dispute Resolution at the Tribunal

The Appeals Tribunal resolves at least 50% of appeals prior to hearing through the use of various alternative dispute resolution (ADR) techniques. Pre-hearing resolutions can have the advantage of being faster, less formal and less costly for the parties and for the Tribunal. In order to address effectively the variety of appeals, the Tribunal relies on a number of processes at different case stages and areas, to narrow, clarify and resolve issues in dispute.

ADR Stream - Mediation Services

The Tribunal's overall goal in the pre-hearing process is to resolve disputes as early as possible within the requirements for a fair and just process. With the introduction of the Tribunal's two-stage appeal form, parties are now asked in the Confirmation of Appeal to indicate whether they desire to participate in the Tribunal's ADR stream. If suitable, mediation services are provided with the consent of all parties and their representatives.

Although appeals are typically referred to the ADR stream upon receipt of the Confirmation of Appeal, mediation services are also provided to assist in other streams. These services are available at all stages of an appeal and can even be called upon at a hearing.

In the ADR stream, trained mediators work with the parties in a neutral and confidential

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Between January 1 and July 31, 2001, the Tribunal received 3,336 cases, including cases where the appellant was ready to proceed from inactive status. The Tribunal projected 3,500 cases for the time period and 95% of that expectation was met.

In the same time period, the Tribunal closed and registered as "not ready to proceed" (inactive status) 4,093 dispositions. This amounts to 91% of the projected target of 4,515 dispositions. The Tribunal met its inventory target, its primary target, with fewer dispositions due to the slightly lower incoming volume of appeals.

The Tribunal's Web Site

The Tribunal also updated the look and considerably changed the content of its web site (www.wsiat.on.ca) in the early spring of 2001. Perhaps the most significant change was the incorporation of a decision search function, previously available only through subscription. The Tribunal's Resource Centre staff provides support for this function. I encourage you to use this new tool to research issues relating to workplace insurance and compensation.

In addition to the Tribunal's decision search feature, many of the Tribunal forms are provided on the web site in electronically "fillable" format, including the form required to commence an appeal at the Tribunal, the Notice of Appeal form. This service is provided to allow for greater accessibility and ease among users (please note, these forms may not be filed on the web site, but may be sent to the Tribunal either by facsimile or mail).

The NOA/COA Process

In March 2001, the Tribunal instituted a significant change in pre-hearing process with the introduction of the Notice of Appeal/Confirmation of Appeal (NOA/COA) process. The details of this process are posted on the Tribunal's web site. We continue to receive positive responses to this new process and are interested in any comments and further suggestions for improvement. With this process, the Tribunal requires that the appellant indicate a readiness to proceed to hearing, at which time a hearing date can be assigned within four months. Please address correspondence with any comments or suggestions to me or to Debra Dileo, Assistant Registrar.

Tribunal/WSIB Relations

As part of the 1999 undertaking to the Ombudsman, the Tribunal continues to work with the WSIB and the Ministry of Labour to assess and project numbers of appeals. By meeting with the Board's Appeals Branch on a regular basis, the Tribunal ensures that it has full knowledge of case load trends at the Board so that it can plan the management of its own cases. Tribunal staff has also been meeting with WSIB business unit managers to improve process for implementation of Tribunal orders.

The Tribunal's Premises

The Tribunal's premises at 505 University Avenue include records, reproduction and mailroom facilities in the basement. The Tribunal was recently forced to vacate the space due to health and safety concerns and these services were temporarily housed on the 7th floor in hearing room space. Parties and representatives will notice that as a result, the Tribunal is no longer able to hold hearings on the 7th floor, and all hearings are now temporarily on floors 2 through 5. Hearings may also on occasion be held in off-site facilities.

Service Enhancements

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Decision Digest Service (DDS) as well as *DDS on Disk* services were discontinued in June 2001.

Questions about the Tribunal's web site or training in the use of the decision search function can be directed to the Ontario Workplace Tribunals Library at 416-314-3700 or by e-mail at owtl@wst.gov.on.ca.

"Fillable" Forms Online

An additional feature of the enhanced web site is the availability of online versions of the Notice of Appeal, Confirmation of Appeal, Request for Reconsideration and Hearing Expense Claim forms. These forms may be filled out online, printed out and faxed or mailed to the Tribunal. Frequently used forms are being added to the web site on a gradual basis in order to improve the ease and speed with which users can access Tribunal materials.

Enhanced Hearing Process Information

The updated web site also includes new information sections that outline processes from making an appeal application to the procedures involved following a hearing. Such areas as the Tribunal's expectations of a party to an appeal and special section applications are covered, as well as the Tribunal's Appeals Procedures, Practice Directions and various stages of the hearing process.

Revised Medical Discussion Papers

The following discussion paper from the Medical Liaison Office has been revised:

Carpal tunnel syndrome. Revised.

Graham, Brent
Workplace Safety and Insurance Appeals
Tribunal (Ontario).
Medical Liaison Office.
May 2001.

This discussion paper and all other Library documents may now be purchased for a flat fee of \$5.00. Alternatively, discussion papers may be photocopied in the Library for 20¢ per page.

Notice of Appeal Application Process

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the parties and the Tribunal with greater certainty and control in the appeal process.

These cases now appear to be proceeding through the appeals process at a speed more consistent with the readiness of the appellant or their representative. Although some parties choose to process their cases quickly, others file their Notice of Appeal and choose not to proceed immediately.

The Notice of Appeal process permits an appellant to confirm that appeal time limits are met, while providing time for parties to prepare for their appeal before the Tribunal actively works on the case.

The new process requires that appellants not proceed to scheduling until they are ready for hearing. This means that the appeal will remain on the Notice of Appeal list until the appellant has completed the Confirmation of Appeal (COA). The Confirmation of Appeal will provide all the necessary information to the Tribunal and the parties to confirm the case is complete and ready to schedule and hear.

The Tribunal undertakes that on receipt of a completed Confirmation Of Appeal, the parties will be offered a hearing date within four months. New process cases are being scheduled within that time frame. The short time line to hearing has been established to ensure that the preparation necessary for the completion of the Confirmation of Appeal is still current at the time of hearing.

The Tribunal has always tried to ensure that its processes are fair, useful and effective in the processing of cases that are often complex. We are confident that the new Notice of Appeal process is improving our process further. To date we have received very few expressions of concern about our new process and few problems with the completion of the new forms. We are committed to addressing any concerns, and ask that you bring these to our attention by writing to the Tribunal.

Copies of the Notice of Appeal and the Confirmation of Appeal may be obtained from the Tribunal's web site at www.wsiat.on.ca, or by telephoning the Tribunal at 416-314-8800.

If you have any questions or concerns, please contact the Registrar's Information Centre at 416-314-8800 or toll-free in Ontario at 1-888-618-8846.

Revised Practice Directions

The Practice Direction, Time Extension Applications, was revised, effective October 11, 2000.

Alternative Dispute Resolution *continued from page 2*

setting, in an effort to achieve resolution of the appeal by agreement of the parties. If the parties agree on a resolution, the settlement is presented to a vice chair for approval, due to the legislative requirements. Provided there is no factual, legal or policy reason to the contrary, the Panel or Vice-Chair will issue a decision incorporating the parties' agreement.

The mediation process also provides an opportunity for neutral evaluation where parties are given a non-binding assessment of the case, and at times extends to the use of an independent medical assessor.

In the event that an appeal cannot be resolved in the ADR stream, the parties retain the option of proceeding by way of a written or oral hearing.

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TRIBUNAL MEMBERS

Since the last issue of WSIAT In Focus (September 2000), the following Orders In Council have been made:

Full-time Vice-Chair

Linda Gehrke, effective June 1, 2001

Full-time Member representative of workers

Jim Crocker, effective January 1, 2001

Full-time Members representative of employers

Pauline Barbeau, effective January 1, 2001

Angelo Cremisio, effective December 13, 2000

Brian Wheeler, effective June 15, 2001

Part-time Vice-Chairs

Judith Alexander, effective January 31, 2001

Jean Guy Bigras, effective July 1, 2001

Lorraine Bortolussi, effective March 21, 2001

Tom Carroll, effective June 1, 2001

Jennifer Farrer, effective January 31, 2001

John Koutoulakis, effective October 4, 2000

Peter Libman, effective February 14, 2001

Cameron MacKenzie, effective August 21, 2001

Faye McIntosh-Janis, effective May 14, 2001

Ellen Mole, effective January 31, 2001

Elaine Newman, effective March 16, 2001

David Purdy, effective October 4, 2000

Audrey Renault, effective January 31, 2001

Norman Ross, effective February 21, 2001

Part-time Members representative of workers

Jim Anderson, effective May 4, 2001

David Beattie, effective December 11, 2000

Diane Besner, effective January 13, 2001

Richard Briggs, effective August 21, 2001

Dave Broadbent, effective April 18, 2001

Doug Felice, effective May 14, 2001

Faith Jackson, effective January 1, 2001

Peter Klym, effective May 14, 2001

Ray Lebert, effective January 1, 2001

Fortunato Rao, effective February 11, 2001

Dave Timms, effective May 4, 2001

Part-time Members representative of employers

Mary Christie, effective May 2, 2001

Susan Copeland, effective June 15, 2001

Dennis McLachlan, effective March 5, 2001

Martin Meslin, effective January 1, 2001

Robert Sanscartier, effective June 29, 2001

Jacques Seguin, effective July 1, 2001

Gordon Stewart, effective March 5, 2001

Barbara Young, effective February 17, 2001