



WSIAT

In Focus

Winter 2009

Vol. 20, No. 1

The Newsletter of the Workplace Safety and Insurance Appeals Tribunal

MESSAGE FROM THE EXECUTIVE DIRECTOR

Marsha Faubert

Tribunal Update

In the last issue of In Focus, I reported on the steps taken by the Tribunal to reduce its active inventory and to deliver on its promise of timely processing of appeals by offering hearing dates within four months of the confirmation of an appeal as hearing ready.

I am pleased to report that the Tribunal made significant progress in this area in 2008. At present, the Tribunal's active inventory has declined to almost 4,000 appeals. The wait times for hearing dates have continued to decline, and we expect to meet our hearing date targets by mid-2009 at the latest. These results are due to both the increased productivity of staff and OIC appointees, and a slight decrease in the number of incoming appeals from the WSIB during the last two years. While it is difficult to predict whether the number of incoming appeals will remain stable throughout 2009, the efforts made in the last several years to reduce our appeal inventory should provide us with the flexibility to make any adjustments in appeal processing needed to ensure that we continue to offer timely service to the parties.

The Tribunal appreciates the patience of its stakeholder community while it has undertaken this process of renewal. In spite of the uncertainty of the times, the Tribunal looks forward to 2009 with a sense of renewed optimism and confidence in its ability to provide quality adjudication to the parties in a timely manner.

WORKSHOP: Effective WSIAT Research & Hearing Preparation

Wednesday, February 18, 2009 –
3:00 p.m. to 4:30 p.m.

Join the session remotely by Audio
Conference

Register for this workshop online
at: **www.wsiat.on.ca**

Are you a representative who
appears before the Tribunal?

You are invited to join a free
presentation dedicated to a discussion
of the most effective ways to research
and use the law in WSIAT
proceedings.

In the first part of the session,
experienced WSIAT decision makers
will discuss and take questions on
topics such as:

see WORKSHOP on page 3

TRIBUNAL MEMBERS

Since the update published in the previous issue of WSIAT In Focus (May 2008), **Sophie Martel**, **Ross McClellan** and **Sean Ryan** were reappointed as full-time Vice-Chairs; **Shirley Clement**, **Colleen L. Dempsey**, **Ruth Hartman**, **Nalini Jugnundan**, **Kumail Karimjee**, **John B. Lang**, **Rosemarie McCutcheon**, **Tom Mitchinson**, **Rosemary Muzzi**, **Shirley Netten**, **Jasbir Parmar**, **Angus Patterson** and **Tony Silipo** were reappointed as part-time Vice-Chairs.

Also during this period, **Brian Wheeler** was reappointed as a full-time Member; **Mary Ferrari**, **David Gillies**, **Kelly Hoskin**, **Victor Phillips**, **Sonya Sahay** and **Elaine Tracey** were reappointed as part-time Members.

Linda L. Gehrke, who has worked at the Tribunal since it began, was appointed the Lobbyist Registrar of the City of Toronto, effective August 1, 2008. In September, **Brian Cook**, one of the Tribunal's initial appointments, began work at the new Human Rights Tribunal as a full-time Vice-Chair.

COMMUNITY ACTIVITIES

At the recent Showcase Ontario 2008 exhibition, held in Toronto September 8th to 10th, the Tribunal was represented by head librarian **Wendy Reynolds**. On September 9th, Ms. Reynolds spoke on behalf of the Ontario Government Libraries Council (OGLC) on the topic "The Blogos-What? Using Web 2.0 for Current Awareness". Volunteers, including the Tribunal library's **Mary Pavic**, showed visitors how to find blogs of interest, and how to use RSS readers to manage feeds.

On October 2nd, Tribunal General Counsel, **Dan Revington**, and Early Review Manager, **Judy Chamberlain**, attended the Schedule 2 Employers' Conference. During the session, Mr. Revington provided an overview of the Tribunal and hearings process and then focused his remarks on reconsiderations, the Ombudsman and judicial reviews. He also discussed the Tribunal's *Practice Direction: Procedure When Raising a Human Rights or Charter Question*. Ms. Chamberlain participated in the question and answer session, applying her experience in the early processing of appeals.

Associate Counsel to the Chair, **Ann Somerville**, was a member of the planning committee for the 2008 COBA Conference, "Learning from the Past: Launching into the Future". The conference was held in Toronto on November 6th. Ms. Somerville was a speaker on a

panel entitled "Human Rights Challenges – Issues and Procedures", and was the moderator for another panel, "Human Rights Challenges – Practical Tips on how to Adjudicate These Cases". Former Tribunal Vice-Chair, **Linda Gehrke**, was also on the planning committee, introduced a panel on Administrative Justice Models and was a recipient of a 2008 SOAR Medal. Tribunal Vice-Chair, **Mel Crystal**, also spoke on a panel on Types and Techniques of ADR.

Ms. Somerville is also Chair of the selection committee for the Tom Marshall Award. This award is given annually by the Ontario Bar Association's Public Sector Lawyers section and recognizes exceptional contributions and achievements by a lawyer practicing in the public sector.

On Friday December 5, 2008 Tribunal Director, **Marsha Faubert** participated in a speaking engagement on "Best Practices for Paralegals before the WSIB and WSIAT" at a CLE program presented by the LSUC at the Law Society of Upper Canada, Osgoode Hall in Toronto.

In 2008, Tribunal staff and OIC's once again demonstrated their generous spirit by making record contributions to both of the Tribunal's annual charity drives. Thanks to this generosity and the good work of the fundraising teams, WSIAT raised more than \$13,000 for the United Way campaign and well over \$11,000 for the OPS's Federated Health Charities campaign.

FINDING TRIBUNAL DECISIONS

Tribunal Decisions on CanLII

Some In Focus readers may have noticed that the Tribunal decisions from 1986 to the present are available on CanLII @ www.canlii.org. CanLII is a not-for-profit organization that receives funding from the federated law societies across Canada and is dedicated to making primary legal resources available to the legal community and public. Just recently CanLII has made it a priority to increase the number of decisions from Canadian administrative tribunals.

CanLII users can now search the full text of WSIAT decisions for free. In the last couple of years CanLII has also enhanced its searching capabilities. There are new search features such as location of keywords in context, selection of multiple jurisdictions for searching, ability to refine searches from result screens and searching by citation. Remember, if you need assistance with searching for Tribunal decisions on CanLII or our decision summary database just contact the library staff at 416-314-3700. Depending on the nature of your search, library staff can recommend which database will best suit your need.

Profiling our Noteworthy Decisions

The Tribunal currently provides access to its “Noteworthy Decisions” as a link on the Tribunal’s website. “Noteworthy” decisions cover novel or unusual issues, different approaches to an issue, procedural points, contentious medical issues and conditions, etc. Starting sometime in 2009 the Tribunal would like to provide a higher profile for these decisions by having them appear directly on the home page along with the keywords that describe their content. Users would, at a glance, be able to decide if they want to read more. This new feature is intended to replace and augment the current WSIAT Reporter. If you have questions, comments or ideas about this service, please contact Alison Colvin at 416-314-9381 or use the

WORKSHOP *continued from page 1*

- methods of incorporating WSIB policy and Tribunal decisions into opening and closing statements
- what makes for effective submissions at the Tribunal
- balancing the Tribunal’s obligation to apply WSIB policy with the merits and justice provisions of the legislation
- the value of Tribunal decisions and decisions from the courts as precedents when making legal submissions
- how to resolve technical problems with the policy packages provided by the WSIB
- the representative’s obligation to be aware of and to fairly present the law.

In the second part of the session, Tribunal librarian Wendy Reynolds will provide advice on how to research workers’ compensation law including:

- searching for WSIAT decisions using the WSIAT decision summary database
- searching the CanLII full text decision database.

Questions regarding the program can be directed to outreach.registration@wst.gov.on.ca or 416-314-8826 or toll free at 1-888-618-8846 ext. 4-8826.



“Online Feedback” form on our website. The Tribunal welcomes feedback on all its web and print products.

WINTER WEATHER AND HEARING ADJOURNMENTS

As the winter progresses, this is a good time to look at what parties can do if their hearing may be affected by inclement weather. If on the hearing day, a party cannot attend a hearing due to inclement weather, the party should contact the Scheduling Department (either the hearing coordinator who scheduled the hearing or Noela Oliveira, Appeals Administrator Assistant, at 416-314-8797 by telephone to provide details about weather related difficulties. Parties should provide specific details such as what efforts were made to get to the hearing, whether the client is aware of difficulty in attending the hearing, etc. At this point, a party may ask for an adjournment of the hearing date. The verbal request should be followed up by a written request that can be faxed to the Scheduling Department at 416-314-7954. If a party asks for an adjournment on the hearing date, the adjournment request is forwarded to the Vice-Chair or Hearing Panel for a decision. In some cases, the Vice-Chair or Hearing Panel may rule that the hearing proceed by conference call. The Scheduling Department will contact the parties to advise them of the decision by the Vice-Chair or Hearing Panel.

Generally weather forecasts provide a degree of predictability which allows parties to take action to ensure that they can attend the hearing. For example, some parties may arrange to arrive at the hearing location the evening before the hearing or request an adjustment of the start time of a hearing. It is fine to contact other parties to determine if they are able to attend a hearing but please keep in mind that parties must forward a formal adjournment request of a hearing if they have exhausted all options for attending the hearing.

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Remembering Jim Robb

The Tribunal sadly announces the passing of long time Employer Member Jim Robb on December 8th 2008. Jim was first appointed to the Tribunal in 1993. Prior to his service with WSIAT, Jim had a long career in municipal politics. He served as Municipal Councillor for the Hamilton-Wentworth region from 1972 to 1989, as Member of the Hamilton-Wentworth Regional Council from 1981 to 1991 and as Mayor of Flamborough from 1989 to 1991. Jim was also Chairman of the Canadian Manufacturers' Association, Ontario Division, Workers' Compensation Committee, from 1990 to 1992. He also worked with Dofasco for almost 30 years, including six as Supervisor, Safety Service, and six as Supervisor, Workers' Compensation. Jim was also very active in his community as a boy scout leader, baseball coach and as a member of the Dofasco Men's Chorus. A funeral for Jim was held in Paris, Ontario on December 11th.