

WCAT Workers Compensation
Appeal Tribunal

Appeal Process



INTRODUCTION

The Workers Compensation Appeal Tribunal (WCAT) is the final level of appeal for workers and employers dissatisfied with decisions of the Workers Compensation Board (WCB.)

WCAT is separate and independent of the WCB.

WCAT's role is to review WCB decisions to ensure they follow the *Workers Compensation Act*, regulations and policies.

If you want to challenge a WCB compensation or assessment decision, you must be:

- a worker,
- a deceased worker's dependent, or
- an employer.

WCAT only deals with issues that have received a final decision from the Internal Reconsideration Officer (IRO) at WCB, or any matter referred to it by WCB.

FILING AN APPEAL

You **must** file a Notice of Appeal **within 30 days** from the date of the IRO decision. To start an appeal, you must fax or mail five (5) copies of a Notice of Appeal form or a similar letter to:

Workers Compensation Appeal Tribunal

161 St. Peters Road, 1st floor

P.O. Box 2000

Charlottetown, PE C1A 7N8

Fax: 902-620-3477

In the Notice of Appeal, you must include your name, address, telephone number, case I.D. or firm number, IR number and date of decision being appealed. Please also state the specific reasons why you believe the decision is incorrect and what relief you are requesting for each issue of the appeal.

THE NEXT STEPS

When we receive your Notice of Appeal, we send a letter to everyone with a direct interest – the worker, the employer at the time of the accident, and WCB. The letter sets deadlines for sending in evidence and submissions.

If you begin the appeal, you are called the “appellant”. Anyone other than the appellant who wishes to take part in the appeal must send us a Notice of Intent to Participate form. WCB always participates. Any document submitted will be shared with the other parties if they have chosen to participate.

After we receive all the submissions, we schedule a date for an oral hearing.

REPRESENTATION

All participants may represent themselves or choose to be represented by another person. You could choose the Worker Advisor, the Employer Advisor, lawyer, friend, union rep, or another person to represent you. Cost-free advisory service to workers and employers is available by contacting:

Office of the Worker Advisor

Environment, Labour and Justice
161 St. Peters Road, 2nd floor
P.O. Box 2000
Charlottetown, PE C1A 7N8
Tel: 902-368-6460 • Fax: 902-368-6576
Toll Free: 1-800-658-1806
E-mail: workeradvisor@gov.pe.ca

Office of the Employer Advisor

Environment, Labour and Justice
40 B Burns Avenue
P.O. Box 2000
Charlottetown, PE C1A 7N8
Tel: 902-368-6132 • Fax: 902-368-4382
E-mail: phmcphail@gov.pe.ca

According to the *Freedom of Information and Protection of Privacy Act*, if you choose to be represented, you must complete an Authorized Representative Consent Form which consents to the release of your file to your representative.

THE HEARING PROCESS

We will contact all participants by phone about one month before the hearing date.

Hearings are informal and last about one or two hours. Appeals are heard by a panel of three WCAT members consisting of a chair, a worker representative and an employer representative. Other participants may include the worker and/or their representative, the employer and/or their representative, and WCB's counsel. The appellant should always attend.

Since there are many confidential issues discussed, appeal hearings are closed to the public and media. However, people who assist participants, such as a representative, family member or friend may also attend. Other observers require the approval of the Chair.

Hearings are held in both Charlottetown and Summerside.

NEW EVIDENCE

According to the *Workers Compensation Act*, WCAT cannot hear any evidence that has not been previously considered by the IRO. The presentation of new evidence will result in the case being referred back to the WCB.

Please note – All our forms are available on our website: www.gov.pe.ca/go/wcat

POSTPONEMENTS

It takes a lot of coordination work to schedule a hearing, so we do not automatically grant postponements. If you have concerns about the hearing date, please contact WCAT at 902-894-0278 as soon as possible to discuss any postponement request. All requests require approval of the Chair.

If the appellant does not attend the hearing, or the postponement request is not accepted, the hearing may proceed without the appellant present and the tribunal will make their decision.

DECISION PROCESS

We will give all parties a written copy of the WCAT decision within 90 days of the hearing. We will not discuss anything about the outcome of the case before the release of the decision.

WCAT may confirm, change, or reverse the original IRO decision which has been appealed.

If a decision is in favour of the appellant, the IRO decision is reversed. The appellant must then follow up with WCB for action on that decision.

After we remove information that could identify anyone, we post the decision on the WCAT website.

APPEALING A WCAT DECISION

WCAT decisions are final and binding.

If you are dissatisfied with a decision, the only action you can take is to request to appeal to the PEI Court of Appeal on a question of law or jurisdiction within 30 days of the date of the WCAT decision.

CHECK LIST

- Does your appeal fall within the 30-day filing deadline?
- Does your Notice of Appeal form or written submission contain all the necessary information?
- If applicable, have you completed an Authorized Representative Consent form?
- If applicable, have you completed a Notice of Intent to Participate form?

For more information please contact:

Workers Compensation Appeal Tribunal

Sherwood Business Centre
161 St. Peters Road, 1st floor
P.O. Box 2000
Charlottetown, PE C1A 7N8
Tel: 902-894-0278
Fax: 902-620-3477
Email: jaburke@gov.pe.ca

**For access to WCAT forms
and links of interest,
visit our website at**

www.gov.pe.ca/go/wcat