WORKERS COMPENSATION APPEAL TRIBUNAL

BETWEEN:

[PERSONAL INFORMATION]
CASE ID #[PERSONAL INFORMATION]

APPELLANT

AND:

WORKERS COMPENSATION BOARD OF PRINCE EDWARD ISLAND

RESPONDENT

AND:

[PERSONAL INFORMATION]

RESPONDENT

DECISION #229

Appellant	Pamela Large Moran, Solicitor representing the Appellant [PERSONAL INFORMATION]
Respondent	Tanya Robertson, Solicitor representing the Respondent Workers Compensation Board
Respondent	Paul W. Bender, Solicitor representing the Respondent [PERSONAL INFORMATION]
Place and Date of Hearing	May 12, 2016 Rodd Royalty Charlottetown 14 Capital Drive Charlottetown, Prince Edward Island
Date of Decision	October 18, 2017

1. This is an appeal of a decision of the Internal Reconsideration Officer ("IRO"), IR #[PERSONAL INFORMATION], dated January 14, 2016, wherein the IRO denied a request for reconsideration of a decision dated August 26, 2015, which found the information submitted by the Appellant was not "new evidence" and, as such, did not change the initial decision which found that Mr. Pauley was not a "Worker". [Appellant's Record Tab 1]

Facts and Background

2. On June 26, 2012, the Respondent Board received a Form 8 Physician's Report indicating that the Respondent Worker may have incurred a workplace injury. [Board's Record Tab 2]

3. On June 28, 2012, the Respondent Board contacted the Respondent Worker by letter advising that it had received information indicating that he may have incurred a workplace injury and that in order to establish a claim for benefits, he was required to complete the Form 6 Worker's Report. [Board's Record Tab 3]

4. On July 12, 2012, the Respondent Board received a Form 6 Worker's Report completed by the Respondent Worker. The Respondent Worker indicated the accident took place on June 7, 2012, while in the employ of the Appellant. The Respondent Worker described the accident as follows: "Climbing ladder up to [PERSONAL INFORMATION], I expected a top on the ladder, which there was not. So when I reached, there was no handle, lost balance, and fell 25 ft." The Form 6 also indicated that the Respondent Worker had been hired on a two-week contract for $5,000 with no deductions. [Appellant's Record Tab 4]

5. Attached to the Respondent Worker's Form 6 were copies of text messages between himself and the Appellant. Also attached were texts between himself and [PERSONAL INFORMATION], the Respondent Worker's [PERSONAL INFORMATION] employer. [Appellant's Record Tab 6]

6. In the text messages between the Respondent Worker and [PERSONAL INFORMATION] they agreed on a day which the Respondent Worker could return home for two weeks.
[Appellant's Record Tab 6]

7. The text messages between the Respondent Worker and the Appellant confirm travel details and outline the arrangement between the parties [Appellant's Record Tab 6]:

> [PERSONAL INFORMATION] *Call me at [phone number]. I think 2 weeks is necessary, the sooner the better. $5000 plus airfare.*
>
> [PERSONAL INFORMATION]*: … I can go after Monday evening. I will need taxi fair* [sic] *to* [sic]. [PERSONAL INFORMATION] *airport and back, not sure how much yet. You pay $5000.00 no deductions. I will need transportation to work and back, my car is here. Will you set up the tickets?*
>
> [PERSONAL INFORMATION]*: Ok I will look into tickets, leaving Regina Tuesday. I will reimburse you for taxi fare, and yes, I will have a vehicle for you to use while here. $5000 no deductions it is. Will be in touch.*
>
> [PERSONAL INFORMATION]*: Good* [PERSONAL INFORMATION] *later then.*

8. On July 12, 2012, the Respondent Board contacted the Appellant by letter advising it had received information about an injury to the Respondent Worker while in the Appellant's employ. The letter requested that the Appellant complete the Form 8 Employer's Report. [Board's Record Tab 4]

9. On July 27, 2012, the Respondent received a Form 8 Employer's Report, completed by the Appellant. The Appellant described the accident as follows: "Worker was climbing a ladder to inspect a [PERSONAL INFORMATION] , reached the top of the ladder and went to grab an existing wrung which is no longer there. Worker then fell back roughly 25 ft., hit a platform then bounced onto the ground." The Form 8 also indicated the Respondent Worker was a full time, seasonal employee whose weekly rate of pay was $831.60 plus vacation pay. [Appellant's Record Tab 5]

10. An interoffice memorandum of the Respondent Board, dated August 6, 2012, documented a conversation between the Respondent Worker and an Entitlement Officer of the Respondent Board. The memorandum stated [Appellant's Record Tab 6]:

> *"I spoke with* [PERSONAL INFORMATION]*, he stated he was not hired as an employee; he was hired on contract for a two week period, $5,000 cash, no deductions plus air fare and a vehicle. He said he ran the* [PERSONAL INFORMATION] *the year prior but has been working out west. He said* [PERSONAL INFORMATION] *contacted him and asked if he would train someone to run the* [PERSONAL INFORMATION] *this year. He attached text message conversations to his Form 6 detailing the arrangement he and* [PERSONAL INFORMATION] *had. He said when he got hurt,* [PERSONAL INFORMATION] *said he'd put him on pay roll and he didn't want that,* [PERSONAL INFORMATION] *had all his payroll information for the year before when he worked there. He said he was in the hospital when the pay went into his account and he had no control over it. He said he has not spent the $1200 that was deposited. He insists he was hired as a contract worker; he has no optional personal coverage. He said this was strictly a cash deal. I told him I was still reviewing his claim and will advise my decision via letter."*

11. An interoffice memorandum of the Respondent Board, dated August 7, 2012, documented a conversation between the Entitlement Officer and [PERSONAL INFORMATION]. The memorandum stated [Appellant's Record Tab 7]:

> *"I spoke with* [PERSONAL INFORMATION]*, owner of* [PERSONAL INFORMATION] *today. I asked him what kind of contract or agreement was made with* [PERSONAL INFORMATION] *to come and work for him for the two week period, during which he was injured.* [PERSONAL INFORMATION] *said he hired* [PERSONAL INFORMATION] *back onto his payroll. I stated that I have evidence on file to suggest otherwise. He asked what it was and I explained I have text messages sent between him and* [PERSONAL INFORMATION] *discussing an agreement regarding* [PERSONAL INFORMATION] *paying him cash without deductions and airfare and a vehicle. He said that after these texts they both agreed for* [PERSONAL INFORMATION] *to go on the payroll. I asked if he had anything regarding a new agreement in writing and he said, no he did not. I stated that* [PERSONAL INFORMATION] *did*

> *receive pay deposited directly to his bank account from* [PERSONAL INFORMATION], *however claims the employer would have had the payroll information from when he was employed with them last year.* [PERSONAL INFORMATION] *did not disagree with this statement. I explained that I will be denying the claim based on the fact that* [PERSONAL INFORMATION] *was hired under contract and does not have coverage and therefore is not considered a worker under the Act.* [PERSONAL INFORMATION] *was fine with this. I also explained this will allow* [PERSONAL INFORMATION] *to pursue a third party claim against* [PERSONAL INFORMATION] *company and he just said, "OK"."*

12. By letter dated August 10, 2012, the Entitlement Officer advised the Respondent Worker that he was not entitled to workers compensation benefits under his claim on the basis that he was not a "worker" under the *Workers Compensation Act*. The Entitlement Officer stated [Board's Record Tab 5]:

> *Based on the evidence on file and conversations with both parties, I have determined that you were hired as an independent operator during the period which you suffered an accident on June 7, 2012.*
>
> […]
>
> *I have confirmed with the Employer Services division of the Workers Compensation Board of PEI that you do not have optional personal coverage with the Board.*
>
> […]
>
> *I have examined the applicable sections of the Prince Edward Island Workers Compensation Act, Workers Compensation Board Policy and I have reviewed the information on your file. I find that there is insufficient evidence to establish that you are a worker under the Act and therefore you are not entitled to compensation benefits.*

13. By letter dated August 10, 2012, the Appellant was advised that the Respondent Worker's claim for compensation was denied. The letter advised that all decisions of the Board were subject to appeal and enclosed a copy of the Board's Appeal Information sheet. [Board's Record Tab 6]

14. Neither the Respondent Worker nor the Appellant appealed the Entitlement Officer's August 10, 2012, decision. [Board's Factum Tab 1]

15. On March 10, 2014, the Appellant submitted a request that the August 10, 2012, decision be reopened based on new evidence. That request was subsequently withdrawn. [Board's Factum Tab 1]

16. On January 13, 2015, the Appellant submitted a second request that the August 10, 2012, decision be reopened based on new evidence. The second request was supported by an affidavit from the Appellant. [Board's Factum Tab 1]

17. In a decision dated August 26, 2015, the Entitlement Officer determined that the information submitted did not constitute "new evidence" in accordance with the Respondent Board's policy, POL-83, New Evidence. As such, the decision of August 10, 2012, remained unchanged. [Appellant's Record Tab 2]

18. The Appellant requested an internal reconsideration of the Entitlement Officer's August 26, 2015, decision. [Appellant's Factum Tab 1]

19. In a decision dated January 14, 2016, the IRO denied the Appellant's reconsideration request on the basis that the Entitlement Officer's application of the New Evidence policy was appropriate as the information submitted did not meet the criteria for "new evidence" as stated in POL-83.

20. On February 9, 2016, the Appellant filed a Notice of Appeal with this Tribunal appealing the IRO's January 14, 2016, decision.

Issues

21. The issues to be decided by this Tribunal are as stated in the Appellant's Notice of Appeal:

Issue 1: The Internal Reconsideration Officer failed to apply Workers Compensation Board Policy POL-83, New Evidence, correctly and further incorrectly and too narrowly interpreted POL-83 in the following respects:

(a) Although she confirmed, as held by the Entitlement Officer, that information put forth by the Appellant was new information not on file at the time of the original decision, she erred in concluding that this information did not qualify as New Evidence because it was "reasonably available" to the Appellant at the time the original decision was made;

(b) She failed to decide that the Entitlement Officer erred in not accepting additional evidence from the Appellant where it had initially been determined that there was "insufficient information" to establish that [PERSONAL INFORMATION] was a worker at the time of the accident; and had not decided that he was not a worker at the time;

(c) She failed to decide that the Workers Compensation Board did not conduct a thorough inquiry with respect to the issue of whether [PERSONAL INFORMATION] was a worker of the Appellant, and failed to provide to the Appellant a fair opportunity to be heard, where the Entitlement Officer spoke to the principal of the Appellant on one occasion only and during that conversation indicated that she had already made a decision on the issue; and

(d) She failed to decide that the purpose and policy at the core of the Respondent Board's New Evidence policy is to allow a claim to be re-opened where relevant information not already considered in the initial decision-making process comes to light, in order to make correct decisions based on the best available evidence.

Issue 2: She failed to decide that the original decision of the Entitlement Officer was flawed and unfair to the Appellant because the Entitlement Officer had not fully explained the significance of [PERSONAL INFORMATION] status as a worker to the Appellant, and made her decision without giving the Appellant a fair opportunity to gather and present evidence to establish that [PERSONAL INFORMATION] was, in fact, a worker at the time of the accident.

Appellant's Argument

Issue 1:

22. The Appellant argued that the IRO interpreted POL-83 incorrectly and too narrowly without proper consideration of the purpose of the policy. The Appellant argued that the policy was intended to provide for consideration of new evidence after a decision had been made without consideration of that evidence, and that the effect and purpose of POL-83 was to ensure that the correct decision is made.

23. The Appellant also argued that paragraph 2(c) of POL-83, which stated that to constitute new evidence the information submitted must not have been reasonably available to the person who had submitted it at the time the decision was made, must be interpreted in the context of that person having first been provided with a reasonable opportunity to provide the information. The Appellant argued that, in this case, that opportunity was denied to the Appellant.

24. The Appellant further submitted that the Entitlement Officer who made the initial August 2012 decision engaged only in a cursory attempt to find relevant facts. The Entitlement Officer acknowledged that she had "insufficient evidence to establish" that the Respondent Worker was a worker, which, the Appellant argued, implied that she may have made a different decision with further information.

25. The Appellant argued that the August 2015 decision too strictly and literally interpreted "reasonably available" in the context of the overall policy. The Appellant submitted that in this case, no emphasis should have been placed on the reasonable availability factor, given that no meaningful opportunity had been provided to the Appellant to provide relevant information.

26. The Appellant stated that it had no opportunity to reflect, consider the issue, or seek counsel or advice before the Entitlement Officer made her decision. The Appellant argued that the Entitlement Officer gave the Appellant no opportunity to produce the relevant information.

27. The Appellant submitted that once the Entitlement Officer determined that the information submitted by the Appellant as new evidence was not previously in the file, she should have recognized that it was not sought out when the initial decision was made, and then accepted it as relevant new evidence.

28. The Appellant also argued that the IRO's decision failed to take into account that the initial August 2012 decision was flawed and did not even give consideration to the fact that the initial inquiry was poorly done.

Issue 2:

29. The Appellant argued that a central issue in this case was whether POL-83 should be interpreted to allow consideration of relevant evidence where a party had information in its possession but was not given a fair opportunity to provide it to the decision-maker.

30. The Appellant submitted that the Entitlement Officer who made the initial decision should have clearly explained the issue to the Appellant and provided him with a fair opportunity to provide whatever information he could to support his side.

31. The Appellant argued that the rules of natural justice and principles of procedural fairness specifically required that those affected by a decision should be given a reasonable opportunity to present their case. The Appellant argued it was incumbent on the Respondent Board to explain and ensure the Appellant understood the issues in order to have a fair opportunity to provide relevant evidence before a decision was made.

32. The Appellant submitted that the Entitlement Officer specifically decided there was "insufficient evidence" to establish that the Respondent Worker was a worker and, in effect, decided that she needed further evidence.

33. The Appellant also argued that the initial Entitlement Officer failed to consider the numerous factors which went into determining whether an individual is a worker versus

an independent operator, and provided a summary of leading court cases setting out those factors and relevant criteria to be examined in making such a determination.

34. The Appellant also quoted Terence Ison (Terence G. Ison, Workers' Compensation in Canada (2nd ed.) (1989) which outlined the factors used in determining independent contractors from workers.

35. The Appellant applied those factors and tests to the circumstances of the present case and determined there was significant evidence not considered by the Entitlement Officer when she made her initial decision as to whether the Respondent Worker was a worker or an independent operator.

Respondent Board's Argument

Issue 1:

36. The Respondent Board accepted that POL-83 allowed for the consideration of information that was not considered at the time the decision was made, but argued that the information must meet all of the criteria set out in the policy.

37. The Respondent Board submitted that the application of POL-83 required a two-part analysis. First, the Board had to determine if the information constitutes new evidence. Then, in accordance with Section 8, the Board may either dismiss the request if the information was found not to be new evidence (Section 8(c)), or if it is found to constitute new evidence, determine whether it provided a basis for changing the decision (Section 8(e)).

38. The Respondent Board argued that the phrase "reasonably available" found at Section 2(c) of POL-83 gave some finality to decisions of the Board and ensured that a worker who was injured in a workplace accident was provided benefits as early as possible.

39. It was the Respondent Board's position that the information in the Appellant's affidavit was "reasonably available" to him at the time of the decision in August 2012, but that the affidavit was not provided until almost two and a half years after the accident. The Respondent argued this information was knowledge that the Appellant had prior to or at the time of the accident.

40. The Respondent Board distinguished between the circumstances in this case and those in WCAT Decision #103 wherein the Vice Chair found that the information in that case was new evidence as it was "fresh evidence proffered to clarify and correct evidence, and therefore … could not have existed until such time as the original evidence had been given and was considered/misconstrued/misunderstood."

41. The Respondent Board submitted that in this case, the Appellant was aware of the facts at the time of the decision and had an opportunity to clarify and correct the evidence at the time the decision was made.

42. The Respondent Board suggested that by introducing the issue of the sufficiency of the Entitlement Officer's August 2012 decision, the Appellant was attempting to appeal that decision when the time period to do so had clearly expired.

Issue 2:

43. The Respondent Board reviewed the case *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 S.C.R. 817, which set out five factors relevant to determining what is required by the common law duty of procedural fairness in a given set of circumstances.

44. The Respondent Board outlined the opportunities it felt the Appellant had to provide the Respondent Board with information. It submitted that the Form 7 Employer's Report filed by the Appellant, provided an opportunity for the Appellant to provide details about the employment relationship with the Respondent Worker. Also, the Appellant spoke to the Entitlement Officer by phone and was advised by letter of the denial of the claim. The letter stated that the Appellant could contact the Entitlement Officer if it needed

assistance with any information related to the decision. The Respondent Board also appended the appeal information sheet to the letter which advised of the availability of an employer advisor and appeal options.

45. The Respondent Board submitted that the Appellant was provided a meaningful opportunity to present its case fully and fairly, and that it had access to an appeal process which it did not access.

Respondent Worker's Argument

46. The Respondent Worker argued that the Appellant was well beyond the period in which an appeal of the original decision to deny benefits would have been permissible. The Respondent Worker argued that the Appellant's new evidence application was, distilled to its essence, a statute barred appeal.

47. The Respondent Worker submitted that the information provided by the Appellant to support its new evidence application did not meet the definition of "new evidence" in POL-83. The Respondent Worker stated that the IRO correctly upheld both the August 2012 and the August 2015 decisions which found that the Appellant failed to present new evidence.

48. Responding to the Appellant's argument that the Entitlement Officer should have analyzed the conduct of the initial investigation, the Respondent Worker argued that there was nothing in the enabling legislation to lend credence to that position. The Respondent Worker submitted that a new evidence application could not proceed in the absence of new evidence.

49. The Respondent Worker submitted that the Appellant was informed promptly of the Entitlement Officer's August 2012 decision, and the availability of the appeal process.

Analysis/Decision

Issue 1:

50. On August 10, 2012, an Entitlement Officer made a determination that the Respondent Worker was not a "worker" under the *Workers Compensation Act*, RSPEI 1988, W-7.1. Neither the Respondent Worker nor the Appellant appealed this decision.

51. On January 13, 2015, almost two and a half years later, the Appellant submitted a request that the August 2012 decision be reopened based on new evidence regarding the Respondent Worker's employment relationship with the Appellant. This request was supported by an affidavit of the Appellant.

52. In a decision dated August 26, 2015, the Entitlement Officer determined that the information submitted by the Appellant did not constitute "new evidence" in accordance with the Respondent Board's policy, POL-83, New Evidence. Therefore, the August 2012 decision remained unchanged.

53. After a request for Internal Reconsideration, the Internal Reconsideration Officer denied the Appellant's Reconsideration request on the basis that the Entitlement Officer's application of the New Evidence policy was appropriate and the information submitted did not meet the criteria for "new evidence" as stated in POL-83.

54. The relevant provisions of the new evidence policy, POL-83, New Evidence, are as follows:

> *"New evidence" means information not already considered in the decision-making process, such as:*
>
> - *new health information from a treating health care provider;*
> - *new work-related information;*
> - *new earnings information; or*
> - *new information pertaining to the employer's operations.*
>
> […]
>
> *2. To constitute new evidence, the information submitted must meet all of the following criteria:*
>
> *(a) the information must be factual in nature.*
>
> *(b) the information must be truly "new". Information is not "new" if it:*

> *(i) summarizes, reformats, reiterates, or reviews information that is already on file;*
>
> *(ii) consists of an opinion which is based on evidence or findings that is already on file or substantially similar evidence or findings;*
>
> *(iii) consists of legal argument or re-argument.*
>
> *(c) the information must not have been reasonably available to the person who has submitted it at the time the decision was made.*
>
> *(d) the information must be relevant and credible.*
>
> […]
>
> *8. Upon receiving a written request,* [PERSONAL INFORMATION] *Compensation Board may:*
>
> *(a) dismiss the request because it does not pertain to a decision;*
>
> *(b) dismiss the request because* [PERSONAL INFORMATION] *Compensation Board has no jurisdiction to reopen the decision;*
>
> *(c) dismiss the request because the information relied upon does not constitute new evidence;*
>
> *(d) make further inquiries with respect to the matter;*
>
> *(e) find that the information relied upon is new evidence, and may decide that:*
>
> *(i) the new evidence does not provide a basis for changing, or reversing the decision, and the decision ought to be confirmed; or*
>
> *(ii) the new evidence does provide a basis for changing or reversing the decision, and the decision ought to be changed or reversed.*

55. Upon review of the new information submitted by the Appellant, the IRO determined that the Entitlement Officer correctly applied POL-83 and that the information submitted by the Appellant was not new evidence.

56. The IRO found that some of the information submitted did not meet Section 2(b)(i) of the new evidence criteria as much of it summarized, reformatted, or reviewed information that was already on file. Further, some of the information submitted was found to be legal argument, and therefore not new evidence in accordance with Section 2(b)(iii). Finally, while the IRO determined that some of the information in the affidavit was new, in that it

had not previously considered in the decision-making process, much of it failed to meet section 2(c) of POL-83 because the information was reasonably available to the Appellant at the time the original decision was made in August 2012.

57. This Tribunal accepts, as the Appellant submitted, that the definition of "new evidence" is information not already considered in the decision-making process; however, the policy is clear that in order for that information not already considered to constitute new evidence, it must also meet all of the criteria in Section 2. The language in Section 2 is mandatory. Therefore, in order to be "new evidence", the information submitted must be information not already considered in the decision-making process, and must be:

> *(a) the information must be factual in nature.*
>
> *(b) the information must be truly "new". Information is not "new" if it:*
>
> > *(i) summarizes, reformats, reiterates, or reviews information that is already on file;*
> >
> > *(ii) consists of an opinion which is based on evidence or findings that is already on file or substantially similar evidence or findings;*
> >
> > *(iii) consists of legal argument or re-argument.*
>
> *(c) the information must not have been reasonably available to the person who has submitted it at the time the decision was made.*
>
> *(d) the information must be relevant and credible.*

58. The Tribunal agrees with IRO's determination that the information provided by the Appellant was not "new evidence" as outlined by Section 2 of POL-83. As noted, some of the information fails to meet the criteria set out at Sections 2(b)(i) and (iii). Further, much of the information in the affidavit was information reasonably available to the Appellant at the time the original decision was made. The IRO properly interpreted and applied POL-83.

59. Upon review of the affidavit, the Tribunal agrees that there does not appear to be any information in the affidavit that could only have been discovered after August 2012. All of the information submitted in the Appellant affidavit was either known by the Appellant or could have been discovered by him with reasonable efforts at the time the decision was made.

Issue 2:

60. With respect to the Appellant's arguments that it was not provided a reasonable and fair opportunity to provide relevant evidence before any decision was made, meaning that Section 2(c) should not be relevant to this determination and the Respondent Board breached the principles of procedural fairness, this Tribunal does not accept these arguments.

61. First, the Form 7 Employer's Report provided an opportunity for the Appellant to provide details about the employment relationship with the Respondent Worker. This form was requested from the Appellant on July 12, 2012 – several weeks before the decision was made. Next, the Appellant spoke to the Entitlement Officer by phone and was advised that she would be denying the Respondent Worker's claim based on her determination that he was not a "worker" under the *Act*. The Entitlement Officer also advised the Appellant at that time of the implications of this decision.

62. The Tribunal accepts that these were reasonable opportunities for the Appellant to provide additional information to the Entitlement Officer as to its employment relationship with the Respondent Worker before the decision was made.

63. Further, after the decision was made, the Appellant was formally advised of the Entitlement Officer's decision by letter on August 10, 2012. The letter contained a statement that if the Entitlement Officer could assist the Appellant with any information related to the decision, the Appellant could contact her and contact information was provided. Further, information on appeal options was attached to the letter and the 90-day appeal timeline was provided. The appeal information sheet also included a statement as to the availability of the Employer Advisor and information on how the Employer Advisor was to be reached.

64. The Appellant was provided a 90-day appeal period in which it could have gathered the necessary information, sought advice/counsel, and submitted the relevant information to the Respondent Board on a request for Internal Reconsideration. There is no information in the Appellant's affidavit that could not reasonably have been discovered by the Appellant prior to the expiry of the 90-day appeal period.

65. There was no evidence provided indicating that the Appellant followed up on any of the appeal options or assistance offers.

66. For the reasons previously stated, the Tribunal finds that the Appellant had a reasonable and fair opportunity to provide the Respondent Board with all relevant information regarding the decision about whether the Respondent Worker was a "worker".

67. The Tribunal therefore finds that the Appellant's Appeal should not be allowed and the IRO decision of January 14, 2015 is upheld.

68. The Respondent Worker in his relief requested asked for a declaration that the Appellant's appeal was frivolous and asked for costs to be paid. Pursuant to Section 56(25) of the Act, the Tribunal may order costs if it finds that an appeal is frivolous.

69. The Tribunal, while not allowing the appeal, does not find that the Appellant's appeal was frivolous and, therefore, does not order costs to be paid by the Appellant.

70. We thank counsel for their materials and submissions.

Dated this 18th day of October, 2017.

P. Alanna Taylor, Chair
Workers Compensation Appeal Tribunal

Concurred:

Donald Cudmore, Employer Representative

Elizabeth (Libba) Mobbs, Worker Representative