



WSIAT

In Focus

April 2003
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The Newsletter of the Workplace Safety and Insurance Appeals Tribunal

MESSAGE FROM THE TRIBUNAL DIRECTOR

Marsha Faubert

Tribunal Activities

The year 2002 marked the end of the Tribunal's inventory reduction project, and the beginning of what we hope is a period of relative stability in the Tribunal's activities. The Tribunal successfully reached its appeal inventory targets identified under its Action Plan by

March 31, 2002, and the number of active appeals has remained relatively constant since then, as we strive to maintain a balance of dispositions and incoming appeals. As of December 31, 2002, the Tribunal's active inventory numbered 3,988 appeals.

The Tribunal expects that the number of appeals filed, hearings held and decisions released in 2003 will be comparable to 2002 levels. In 2002, the Tribunal released 2,370 final decisions, exceeding the number released in any year prior to 2000, when the inventory reduction project began in full force. In addition, we initiated a number of projects aimed at identifying inactive cases in which the parties no longer wish to

continue with their appeals at the Tribunal. We were able to achieve a substantial reduction in the number of inactive cases with the Tribunal as a result of these projects, either by closing abandoned appeals, or by referring the appeals for adjudication. These projects will continue at a lesser pace throughout 2003.

During the inventory reduction period, the Tribunal introduced the Notice of Appeal process, which was designed to ensure the prompt adjudication of appeals that are ready to proceed to hearing. Since then, we have made significant improvements in the time for processing of appeals and in the timeliness of decision-making following a hearing. In 2002, the

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Workers' Compensation Program Debuts at OBA Institute 2003

The first workers' compensation program presented at the Ontario Bar Association's annual Institute was a great success, thanks in no small part to the key participation of several speakers from the Tribunal. The Institute is the Bar Association's largest continuing education event of the year, attracting over 1,000

registrants from around the province to the Metro Convention Centre. Although the Institute has been an annual event for many years, this is the first year that a workers' compensation program has been presented. "Essentials of Workers' Compensation Law, Practice, and Process," a program for both experienced and new

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STAFF ACTIVITY UPDATE

In addition to the Public Information Sessions, Tribunal staff and OICs continue to offer their expertise by organizing or speaking at educational programs.

Martha Keil, Vice-Chair Registrar, presented a decision-writing workshop at the Society of Ontario Adjudicators and Regulators Adjudicator Training session in

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Workers' Compensation Program
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representatives, covered a wide range of topics including benefits fundamentals, effective representation from the worker's and employer's perspectives, the latest developments at the Board and the Tribunal, and alternative remedies.

Carole Prest, Counsel to the Chair at the Tribunal, opened the program by describing how to determine which of the three benefits schemes apply, highlights of the differences between the three schemes, and important developments in LOE caselaw. Dan Revington, General Counsel at the Tribunal, and John Slinger, Director of Appeals at WSIB, spoke next on noteworthy activities of the Board and Tribunal. Mr. Revington included summaries of particularly interesting judicial reviews of Tribunal decisions. Mr. Slinger discussed trends in appeals at WSIB, and provided an update on policy initiatives. The audience was particularly interested in his report on the Board's recruitment of a Fair Practices Commissioner. Gary Newhouse and Stephen C. Roberts, Roberts Goldstein Debiase, addressed workers' and employers' key obligations after a work injury, the essentials of case preparation, and effective advocacy at the Board and Tribunal. Eleanor Smith, Tribunal Vice-Chair and former General Counsel, and Rob Boswell, discussed when there is a right to sue, when and how to bring a right to sue application, when elections are available, the difference between right to sue and other hearings, and what the Tribunal expects from representatives in a right to sue case.

The program was co-chaired by Ann Somerville, Tribunal Counsel Office, and Robert Boswell, Hicks Morley Stewart Storie LLP.

**WSIAT PUBLIC INFORMATION
MEETINGS 2003**

The Workplace Safety and Insurance Appeals Tribunal is pleased to continue its program of public information meetings, aimed at assisting its clients to better understand and access its processes and services.

In order to provide an update on services, process changes and to invite feedback from our clients, the Tribunal will be holding period public meetings in centres throughout Ontario where it holds hearings. Each session will include a presentation on current Tribunal processes and services as well as the opportunity for discussion with Tribunal members on hearing preparation, presentation and other issues.

Attendance is open to anyone with an interest in the Ontario workplace safety and insurance appeal system. All sessions are free of charge and pre-registration is not required.

**SESSIONS ARE SCHEDULED
TO TAKE PLACE IN:**

Ottawa

Wednesday, April 9, 2003 – 9:00am-11:00am
The Sheraton Ottawa Hotel
150 Albert Street
Ottawa, Ontario K1P 5G2
(613) 238-1500

Windsor

Wednesday, May 7, 2003 – 9:00am-11:00am
Windsor Hilton Hotel
277 Riverside Drive West
Windsor, Ontario P0P 0P0
(519) 973-5555

Kitchener

Wednesday, June 4, 2003 – 9:00am -11:00am
Holiday Inn Kitchener
30 Fairway Road South
Kitchener, Ontario N2A 2N2
(519) 893-1211

Sudbury

Tuesday, June 17, 2003 – 9:00am-11:00am
(Location to be announced)

For further information contact Vincent at:
416-314-3733 or toll-free at 1-888-618-8846,
ext. 4-3733.

THE WSIAT PUBLIC INFORMATION OUTREACH PROGRAM

Since 1999, the Tribunal has continued a program of public information meetings, aimed at assisting its clients to better understand and access its processes and services. On approximately an annual basis, a public information team from the Tribunal visits each centre where the Tribunal holds hearings to host meetings where stakeholders are invited to learn more about current developments at WSIAT, and to provide valuable feedback with respect to Tribunal operations and services.

These public information meetings are particularly valuable to the Tribunal in that they provide an opportunity to engage clients in all regions of the province on an informal basis, to hear their feedback, establish contacts and to assist in creating awareness and understanding of developing areas.

In 2002-2003, Tribunal Director **Marsha Faubert**, Vice-Chairs **Martha Keil**, **Linda Gehrke**, **John Moore**, **Sara Sutherland**, and **Sean Ryan**, Employer Members **Brian Wheeler**, **Pauline Barbeau**, and **Jim Robb**, Worker Members **Jim Crocker** and **Dave Timms**, Assistant Registrar **Debra Dileo**, Special Projects Counsel **Susan Adams**, Librarian **Felicity Fowke**, and Resource Department Manager **David Beattie** have played active roles in this program.

The current program focuses on Tribunal structure and services, the appeal application, pre-hearing, scheduling and post hearing processes, e-services and discussion with a Tribunal panel on hearing preparation and presentation. Participants at past sessions have provided helpful feedback, which continues to be used in the development of Tribunal processes and services.

The public information sessions are open to anyone with an interest in the Ontario workplace safety and insurance appeal system and are free of charge. For more information and a complete schedule of upcoming sessions, visit our web site at: www.wsiat.on.ca or contact the Tribunal's Resource Department at: 416-314-3733, or toll free at: 1-888-618-8846 ext. 4-3733.

Staff Activity Update *continued from page 1*

January 2003. Also in January, **Linda Gehrke**, Vice-Chair, provided a training session about decision writing to the Inquest Coroners at the invitation of the Dr. B. Porter, Deputy Chief Coroner of Inquests for Ontario.

Ann Somerville, Chair of the OBA's Workers' Compensation Section for 2002-3, organized a dinner meeting in February to discuss independent operators. Also, Ms. Somerville Co-Chaired the Workers' Compensation Section's first year of participation in the OBA Institute.

John Bartolomeo, Tribunal counsel and former Tribunal articling student, participated in a Public Interest Day, organized by the law schools at the University of Toronto and York University, to provide information to graduating students interested in public sector articling.

Dan Revington, General Counsel, and **Carole Prest**, Counsel to the Chair, are both participating on

the OBA's Administrative Law Section's Executive Committee this year. Mr. Revington is also involved with the Law Society's Specialty Committee on Workplace Safety and Insurance Law.

In February, Mr. Revington organized an Experience Rating Training Day for Tribunal staff and OICs. Staff from the WSIB presented a full day program on terminology and how to read experience rating cost statements, and reviewed NEER claim cost calculations.

The Tribunal's **Advisory Group**, comprised of representatives from injured worker and employer stakeholders groups, met in February 2003. Attending on behalf of the Tribunal were: **Ian Strachan**, Tribunal Chair; **Marsha Faubert**, Tribunal Director; **Dan Revington**, General Counsel; **Jim Crocker**, Worker Member; **Brian Wheeler**, Employer Member; **Susan Adams**, Counsel; and **Linda Walinga**, Group Co-ordinator.

Message from the Tribunal Director *continued from page 1*

Tribunal was able to offer the parties a hearing date within four months of certification by the appellant that he or she is ready to proceed to hearing. In some cases, the parties were unable to accept early hearing dates due to their other commitments or those of their representatives, and unfortunately, we have had to reduce or cancel some trips scheduled in regional hearing centres as a result. After the hearing, the median time to decision release following the completion of an appeal was 39 days in 2002, down from 55 days in 1997. Reasons in complex cases require more preparation, and represent a significant number of the decisions that take longer than 120 days to release. One of our objectives in 2003 is the improvement of our pre-hearing preparation in complex cases, so that post-hearing delays in decision-making can be avoided.

Under the Notice of Appeal process, appellants who need more time to prepare their appeals are given up to two years after notifying the Tribunal of their appeal to inform the Tribunal that they are ready to proceed to hearing. Our

experience has been that parties have not certified their readiness to proceed as quickly as anticipated. In light of this, we estimate that a number of appeals filed under the NOA process will not proceed to hearing once the parties have had a chance to assess their case, or once other issues have been completed at the WSIB level. The Tribunal is currently establishing a process for reviewing appeals once the two-year period has expired, to determine which appeals require a hearing and which appeals have been abandoned.

The feedback from representatives attending the Tribunal's public information sessions has been overwhelmingly positive. These sessions are an important source of information about Tribunal processes and resources for the parties and their representatives, and they provide a forum for feedback from stakeholders about the Tribunal's performance. The parties have told us that they appreciate the opportunity to engage in dialogue about our process with senior Tribunal staff and OICs. They have

also reminded us of their concern that their appeals are adjudicated promptly by competent adjudicators, with the high quality of decision-making that has been associated with the Tribunal since its inception.

The stakeholder expectations for the Tribunal are high, and much of the focus in public information sessions has been on the performance of our adjudicative staff who are the public face of the Tribunal. However, we could not meet the expectations of the parties without our support staff, who prepare cases for hearing or resolve issues in the pre-hearing stage, provide information to the parties, schedule hearings, maintain a high level of information services in our library and on our web site, and provide critical technological, clerical and legal support for our adjudicators. These staff members show their dedication to the Tribunal's objectives every day, and both the hearing participants and the Tribunal adjudicators benefit from their hard work. Their contribution is not often acknowledged, but it is appreciated.

New Features Added to WSIAT Web Site (www.wsiat.on.ca)

Decision Summary Search

Access to the Decision Summary Search function has been made easier with the addition of a button called "Search for WSIAT Decisions" on the home page of the web site. Clicking on this button will take you directly to the Decision Summary Search page.

Resource Materials

The following resource materials have been added to the web site:

- Annual Report 2001
- WSIAT Quarterly Report: Production and Activity for the Period October 1 to December 31, 2002.

Forms

The WSIAT Authorization to Represent Form is now available online.

Accessibility Under the Ontarians with Disabilities Act

Towards the end of 2002, the WSIAT web site was re-designed in compliance with the provisions of the Ontarians with Disabilities Act, 2001 which requires "[government] internet sites to be presented in a format that is accessible to persons with disabilities, unless it is not technically feasible to do so."

For questions or comments about the web site, please contact the WSIAT webmaster by e-mail at webmaster@wst.gov.on.ca.

NEWS FROM MLO

Medical Discussion Papers

The Tribunal commissions medical discussion papers to provide general information on a variety of medical topics that are commonly involved in appeals. Each paper is written by a recognized expert in the field who is selected by the Tribunal. Each expert is asked to provide a balanced view of the current medical knowledge on the topic.

The discussion papers are available to the public on the WSIAT web site, and in the library.

The following discussion papers have recently been made available:

1. Back Pain
2. Neck Pain and Related Symptoms: Cervical Disc Disease
3. Post Traumatic Stress Disorder
4. Shoulder Injury and Disability
5. Carpal Tunnel Syndrome (please note: the discussion paper on Carpal Tunnel Syndrome is now re-posted with illustrations).

Medical Generic Reports

At times medical assessors provide reports on individual cases that contain generic information on a particular medical topic. In such cases the reports are anonymized and forwarded to the library.

The following medical generic reports have recently been placed in the Library.

TITLE	AUTHOR	DATE	LIBRARY LOCATION
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Pulmonary Embolism, long-term effects Flow-volume loop Effects of obesity on pulmonary function	Dr. Norman Jones	January 6, 2003	VF 11186
Asbestosis Idiopathic Pulmonary Fibrosis	Dr. Dildar Ahmad	December 17, 2002	VF 11187
Morton's Neuroma Stress Fracture, Foot	Dr. Edward English	January 29, 2003	VF 11188
MI, Risk Factors Coronary Artery Disease Chronic Stress	Dr. Susan Lenkei-Kerwin	March 5, 2003	VF 11189
Sarcoidosis, Silica (Literature Search)	Dr. Norman Jones	January 2003	VF 11190

All discussion papers and medical generic reports listed above are available in the Ontario Workplace Tribunals Library. When ordering medical generic reports, please quote the Library location number. Self-serve photocopies may be made in the Library for 20 cents per page. Alternatively, copies may be ordered for \$5 per document.

TRIBUNAL MEMBERS

Since the last issue of WSIAT In Focus (November 2002), **David Gillies** has been appointed a part-time Member representative of workers.

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