



In Focus

April 2004

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The Newsletter of the Workplace Safety and Insurance Appeals Tribunal

MESSAGE FROM THE TRIBUNAL DIRECTOR

Marsha Faubert

Tribunal Report

After the completion of the backlog reduction project, the Tribunal looked forward to a period of relative calm and stability, as we contemplated a “steady state” of incoming appeals and dispositions. Instead, in 2003 we found ourselves in the position of attempting to keep pace with unanticipated caseload developments while relying upon declining resources and fewer adjudicators. The Tribunal’s performance against these odds has been impressive, but in the end, insufficient to maintain the desired state of equilibrium that we anticipated.

In the last several years, the Tribunal has worked with the WSIB to derive information concerning the likely number of appeals that will result from the Board’s decision processes; and of all the variables that affect our caseload, this has proven to be the most stable and predictable. We expected to receive 950 new cases per quarter in 2003, consisting primarily of appeals from final WSIB decisions. We received, on average, 980.5 new cases per quarter, an excess of 122 cases over estimates for the year.

After introducing the Notice of Appeal process in 2001, the Tribunal monitored its appeals inventory in an effort to determine how many of the appeals filed under the new process would proceed to hearing. As we

continued on page 3

DECISION SUMMARY SEARCH TIP

French Decisions

Proceedings before the Tribunal may be held in English or in French, or in both English and French. Tribunal decisions relating to hearings conducted in French are released in French, with an English translation. Decisions relating to hearings where the parties have participated in both English and French are released simultaneously in both languages.

If a Tribunal decision is available in French, there will be a note in the References field of the Decision Summary database, stating: “NOTE: This decision was released in French with an English translation” or “NOTE: This decision was released in English and French.”

continued on page 2

WSIAT STAFF ACTIVITIES

In March, Tribunal Director **Marsha Faubert**, Case Management Systems Director **David Bestvater**, Vice-Chair Registrar **Martha Keil** and Special Projects Counsel **Susan Adams** met with representatives of the British Columbia WCB-Review Division, the BC Board’s internal appeals branch. Their discussions focussed on the Tribunal’s business process, party exchange of evidence

continued on page 2

NEWS FROM MLO

Medical Discussion Papers

The Tribunal has discussion papers on a variety of medical topics that are commonly involved in appeals. The papers are available to the public on the Tribunal's web site, and in the Library.

The following discussion papers have been updated:

- Stroke
- Hearing Loss and Tinnitus

Generic Medical Reports

From time to time medical assessors provide reports on individual cases that contain generic information on a particular medical topic. This generic information may be useful in other cases where a similar medical issue is raised. Reports selected by MLO as having potential reference value are anonymized and forwarded to the Library.

A medical generic report on the following topics has been placed in the Library, and is available in the vertical files:

Respiratory, haematology, lung cancer, pancoast tumour, non-Hodgkins lymphoma
by Dr. Mark D. Vincent,
dated November 13, 2003 (VF 11281)

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.

Staff Activities *continued from page 1*

and submissions, and the Tribunal's use of technology, particularly tracIT.

On April 1st, Early Review Team Leaders **Judy Chamberlain** and **Nicole Wutschert**, Tribunal Counsel **John Bartolomeo** and Resource Department Manager **David Beattie** participated in a training conference sponsored by Injured Worker Outreach Services in Etobicoke. Their presentation addressed the appeal application process and hearing issues.

Decision Summary Search Tip

continued from page 1

To find decisions that are available in French, search by entering the word French in the References field. Alternatively, you may want to enter French and note in the field, in order to eliminate records in which the word French appears in other contexts (such as the name of a case considered).

For each record in your search results, you can click on the link to View Full Decision Text, to see and/or print the full text of the decision in both English and French.

WSIAT PUBLIC INFORMATION MEETINGS 2004

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 and process changes, and to invite feedback from our clients, the Tribunal holds periodic public meetings in centres throughout Ontario where it holds hearings. Each session includes a presentation on current Tribunal processes and services as well as the opportunity for discussion with Tribunal members about hearing preparation, presentation and other issues.

A SESSION IS SCHEDULED TO TAKE PLACE IN:

Toronto (downtown)

(Tuesday, May 4, 2004)

(9:30am - 11:30am)

900 Bay Street, Simcoe Room, 1st Floor

(Wellesley Street entrance)

Toronto, Ontario M7A 1N3

(416) 314-3773

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.

Message from the Tribunal Director *continued from page 1*

reached the two-year anniversary of the new process, we made two significant observations: appellants took longer than expected to confirm their readiness to appeal, but when they did, they did so at a greater rate than the Tribunal expected based upon its past experience. This meant that 690 more appeals were confirmed as ready to proceed in 2003 than the Tribunal expected.

On its own, this increase in hearing ready cases need not have presented any exceptional challenges for the Tribunal, as our staff and processes underwent a number of changes in 2002 and 2003 to support a steady and high number of appeals proceeding through the process. Unfortunately, our ability to respond to this increase in hearing ready appeals was hampered by a significant reduction in the number of adjudicators available to hear these appeals. Although the Tribunal's staff worked diligently in 2003 to prepare cases for hearing, by the end of the year our scheduling department found itself with a surplus of appeals awaiting scheduling. In late 2002 and 2003, a number of adjudicators resigned from the Tribunal or did not have their appointments renewed; and sadly, one of our vice-chairs, Nick McCombie, passed away in the midst of his illustrious and productive career with the Tribunal. During the same period, only one new vice-chair was appointed. The Tribunal has also been hampered in scheduling appeals before full panels due to significant attrition in its complement of full-time and part-time members. The remaining adjudicators have provided exceptional service to the

community by continuing to be available for scheduled hearings while attempting to cope with a heavy and steadily increasing load of decisions to write.

To place this in context, at the peak of the backlog reduction project the Tribunal had 65 vice-chairs, and in 2001 it released 3,499 final decisions. By the end of 2003, the Tribunal had only 30 vice-chairs, but was still able to release 2,408 final decisions that year. The commitment and dedication of our adjudicators has been outstanding in the face of these events.

Outlook for 2004

As a result, as we enter 2004, the Tribunal's active inventory has increased beyond targeted levels, and the parties are again encountering delays in the scheduling of hearings and the release of decisions in completed appeals. The Tribunal is anxious to prevent the repetition of the difficult period we experienced between 1998 and 2001; but we must again ask the patience of our stakeholders as we work towards normalizing our workload. Assuming that a sufficient number of adjudicators are appointed early in 2004, we expect to begin making inroads in our backlog of appeals ready for hearing by the end of 2004. However, delays in scheduling and decision release, as well as the number of appeals in our active inventory, may increase during the first part of 2004, and we do not anticipate reaching our inventory targets until 2006. In the meantime, we continue to be dedicated to the same level and quality of service that the community has come to expect of us.

TRIBUNAL MEMBERS

Since the last issue of WSIAT In Focus (November 2003), **Marilyn Smith** has been appointed as a part-time Vice-Chair.

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