

In Focus

May 2008

Vol. 19, No. 1

The Newsletter of the Workplace Safety and Insurance Appeals Tribunal

MESSAGE FROM THE EXECUTIVE DIRECTOR Marsha Faubert

Tribunal Update

In the last three years, the Tribunal has been in a transitional phase as it worked towards reducing its active inventory through the addition of new adjudicators. Since 2004, the Tribunal's complement of Order in

Council appointees has been transformed by the addition of 29 new Vice-Chairs and four new Members. New appointees (appointed in the last five years) now represent over half of the Tribunal's Vice-Chair complement, with the Members' group less significantly affected by these developments. The training and development of new appointees has been the focus of a number of the Tribunal's activities in the last several years, and this investment is beginning to show results. The decision output of the Tribunal has increased steadily since 2005; this increase in productivity has allowed the Tribunal to make significant progress in reducing its backlog of active appeals.

Timely Processing of Appeals

The Tribunal's long-term, or "steady state" target is for an active inventory of 4,000 appeals; at this level, the Tribunal will once again be able to deliver on its promise of timely processing of appeals with hearing dates offered within four months of the appeal being confirmed as hearing ready. We expect that this will occur by mid-2009.

At the end of the first quarter of 2008, the active inventory was 4,536, a significant reduction from a recent high of 5,493 active appeals at the end of the third quarter of 2006. With this progress in appeal inventory reduction, parties should begin to see significant decreases in the time to schedule hearings by the end of

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Remembering Bob Sherwood

It is with sadness that the Tribunal announces the passing of Employer Member Bob Sherwood on April 7, 2008. Mr. Sherwood was first appointed to the Tribunal in 2000. A former councillor for the City of Markham, Bob was a past president of the Thornhill Community Hockey League and an advocate for transit access for the disabled as a former Chair of the Markham Mobility Foundation. He was also a teaching professor at Seneca College and ran RC Sherwood Sales, a promotional products business. A funeral for Bob was held in Toronto on April 10, 2008.

Staff Activities

On January 17 and 18, 2008, The Faculty of Law, University of Toronto, held a symposium on "The Future of Administrative Justice." Tribunal Counsel to the Chair **Carole Prest** was a member of the organizing committee along with

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TRIBUNAL MEMBERS

Since the update published in the previous issue of WSIAT In Focus (December 2007) **Arthur Lust** and **Marcel Trudeau** were appointed as part-time Members.

Also during this period, **Michael Butler**, **Urich Ferdinand**, **Jay Josefo**, **Colin MacAdam** and **Rob Nairn** were reappointed as part-time Vice-Chairs. **Diane Besner** and **Ray Lebert** were reappointed as part-time Members.

Message from the Executive Director *continued from page 1*

2008. The Tribunal appreciates the patience of its stakeholder community while it has undertaken this process of regeneration.

Regulatory Framework for Paralegals

There were further changes to the Tribunal's operating environment in 2007 with the introduction of a regulatory framework for paralegals created by amendments to the *Law Society Act*. Non-lawyers make up the majority of representatives who appear on behalf of parties before the Tribunal, and this group was significantly affected by this development. Under the framework, anyone providing legal services in Ontario, including representation before the Tribunal, requires a licence unless the *Law Society Act* or a by-law of the Law Society says a licence is not required.

The Tribunal took the initiative to notify the representative community of their obligations under the *Law Society Act*, facilitated the application for licensing of many paralegals by developing a reference procedure, and monitored its caseload closely to ensure that hearings were not lost as a result of the failure of a representative to take appropriate action. The Tribunal also encouraged those paralegals who claim to be exempt to clarify their status with the Law Society. Finally, the introduction by the Law Society of a comprehensive Paralegal Rules of Conduct will require the Tribunal to assess its mechanisms for addressing conduct issues for representatives.

Goals for 2008 to 2009

The next two years will be critical for the Tribunal, as we aim to stabilize our caseload, provide timely hearing dates, provide up-to-date and accessible information to stakeholders, and work with stakeholders in the transition to a new system of licensing for representatives. We are able to approach

these goals with confidence as we are supported by dedicated and knowledgeable staff and appointees.

An Update on the WSIAT Website (www.wsiat.on.ca)

Homepage Revised

In an effort to provide more direct access to frequently used information on the WSIAT website, a "Most Popular Links" section was added to the homepage. This section contains direct links to the following: Decision search, Practice Directions, Medical Discussion Papers, Annual Report, Quarterly Report, Noteworthy Decisions, and Introduction to the Tribunal.

A section specifically for "Representatives" has also been prominently added to the homepage. Direct links are now available to the new regulation regarding paralegal representation, the code of conduct for representatives and how to properly report a representative's change of address. There is also a section on how to find a representative.

WSIAT Plain Language Glossary Made Available

A list of terms most frequently used in Tribunal processes has been compiled in a new glossary. The terms are defined in clear and easy to understand language. The glossary is available as a link under the WSIAT Documents section of the website.

For questions or comments about the website, please contact the WSIAT webmaster by email at webmaster@wst.gov.on.ca.

former Tribunal Chair Ron Ellis, Alec Farquhar, Kathy Laird, Ivana Petricone, Jo-Ann Seamon and Lorne Sossin. The aim of the symposium was to bring together a wide range of experts, practitioners and observers of administrative justice to explore the dynamics of administrative justice and possible directions of reform. The symposium was supported by the Law Foundation of Ontario, Legal Aid Ontario and the Faculty of Law, University of Toronto.

On February 5, 2008 **Eleanor Smith** presented an overview of WSIAT practice directions and procedural issues at the 2008 OBA Institute Administrative Law Program, which is now in its 33rd year. She summarized the process for appeals while providing anecdotal evidence, based on her extensive experience, of common mistakes in practice and reminders of appropriate conduct for representatives.

On April 4, 2008 Tribunal General Counsel **Dan Revington** joined safety advocate Robert Ellis for a presentation to 300 high school students at York Memorial Collegiate Institute in Toronto. Robert Ellis is well known across Canada and the United States for his outstanding presentations on health and safety in the workplace for young workers. In 1999, Robert's 18-year-old son David was seriously injured by a machine at work on his second day on the job. David died six days later. Robert used this devastating event to start a crusade for health and safety for young people. He has accepted numerous speaking engagements to students to share his tragic experience and his message for safety awareness in the hopes of preventing injuries to young workers. The hard-hitting presentation was well-received by the students at York Memorial. Dan was pleased to participate in Robert's program by answering questions from the students.

On April 7, 2008, the Tom Marshall Award of Excellence for Public Sector Lawyers was awarded to David Lepofsky. Associate Counsel to the Tribunal Chair **Ann Somerville** was one of the developers of the award and the Chair of this year's selection committee.

On April 15, 2008 WSIAT Executive Director, **Marsha Faubert** and WSIAT Director of Appeals Services, **Debbie Dileo** participated in a seminar presented by the Ontario Mining Association in Sudbury. They presented information on The New Era of Paralegals and How it Impacts Employers and Workers. The workshop was designed to provide updated information on WSIB return-to-work policies, employer accreditation

WSIAT In Focus
Volume 19, Number 1

WSIAT IN FOCUS is a publication of the (Ontario) Workplace Safety and Insurance Appeals Tribunal. It is distributed free of charge.

If you would like to be placed on the subscription list for WSIAT In Focus, please contact the Tribunal Resource Centre at the following number: (416) 314-3700.

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ISSN 1480-5731

programs, appeals, role of physicians, insurance law and the impact on employers.

On April 28th, **Carole Prest** also spoke on the topic of "Rules, Policies and Guidelines" at the Canadian Institute's annual "Fundamentals of Administrative Law & Practice" Conference in Toronto.