

In Focus

The Newsletter of the Workplace Safety and Insurance Appeals Tribunal

MESSAGE FROM THE CHAIR

Nimble justice

One year ago, the Tribunal's inventory reached a record level as the active caseload climbed above the 9,000 appeal level. It was an unprecedented workload for an organization which was originally designed as a low-volume, final-appeal body to provide a quality review of a relatively limited number of key appeals – i.e. 1,000 to 1,500 appeals per year. The low-volume model had prevailed until the mid-1990s. In 1997, new appeals jumped above the 5,000 level. In 1998, the inflow was approximately 11,000 cases. Despite the Tribunal's creative attempts to deal with this avalanche of appeals, the active caseload continued to increase. The dramatic increase in appeals cast the Tribunal in a new role as a high-volume final-appeal agency within the workplace safety and insurance system. This role provided a stiff challenge, as the Tribunal strove to maintain quality adjudicative service while substantially increasing appeal dispositions and improving its response time – a goal which might be described as "nimble justice".

During this time, the Tribunal continued to work with the Workplace Safety & Insurance Board (WSIB) in an attempt to streamline administrative practices and ensure quality service throughout the system. The Tribunal also worked at developing new business techniques and agile responses to problems in order to manage the expanded caseload more efficiently and further its goal of "nimble justice".

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Medical Discussion Papers

The following new discussion papers from the Medical Liason Office have been added to the Library's collection:

Limping and back pain.

Harris, W R and Harrington, Ian J
December, 1999. 5p.
Cost: \$3.00 plus G.S.T.

Reflex sympathetic dystrophy.

Fleming, J F R
April, 2000. 7p.
Cost: \$3.40 plus G.S.T.

Thoracic outlet syndrome.

Fleming, J F R
January, 2000. 13p.
Cost: \$4.60 plus G.S.T.

The cost shown is the charge for purchasing the items. Alternatively, you can photocopy these discussion papers in the Library for 15¢ per page.

Update from the Executive Director

Appeal Resolutions

The Tribunal continues to work hard to achieve reductions in its appeals inventory. To date, the Tribunal has met its quarterly inventory reduction targets. In October 1999, when the Tribunal started its backlog reduction project, the active inventory stood at 9112 cases. I am very pleased to be able to report that at the end of August 2000 the Tribunal has an active inventory of approximately 6600 cases. This represents a significant reduction in caseload, and will result in greater speed in the processing of appeals.

Appeal Process

The Office of the Vice-Chair Registrar (OVCR) continues to implement the Tribunal's objective to provide parties with dispositions at the earliest stage possible in the file process. This means that files are reviewed to ensure that they do not present preliminary or other issues that require immediate decision. Where such issues arise, pre-hearing legal workers may discuss the matter with the parties, or refer it to the Vice-Chair Registrar for consideration.

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Message from the Chair

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Over the past twelve months, the Tribunal made a number of significant changes as it strove to reach its objective. It increased its roster of Vice-Chairs (full-time and part-time) from 30 to 52 by the end of 1999. Once all of the Vice-Chairs have completed their training and become productive, they should have a significant impact on the Tribunal's hearing capability in the latter part of this year. As part of its ongoing restructuring, the Tribunal also created the position of Vice-Chair Registrar (VCR) and developed three VCR teams. The Registrar's Office reviews new appeals, and streams the appeals into the hearing process through one of: the complex case/TCO stream, alternative dispute resolution (ADR) stream, the regular hearing stream or the written stream. Once streamed, the VCR teams review the main and written stream files, to check for "hearing readiness". The Tribunal also experimented with a new "co-mediation" process involving one worker Member and one employer Member. Parties participate in the co-mediation process on a voluntary basis and, if the parties' and co-mediators' efforts produce a recommendation, that recommendation goes to a Vice-Chair for implementation through a short decision. While this process is still in a relatively early stage, the responses from parties who have participated in the project to date have been very positive. Parties appear to like the informality and the combination of a worker/employer member perspective in the mediation process. In addition to increasing its Vice-Chair resources and restructuring its appeal process over the past year, the Tribunal made changes to its senior management, including the positions of Executive Director, Director of Finance, Director of Case Management, Chief Administrative Officer, Chief Information Officer and General Counsel.

To deal with the dramatically expanded caseload, the Minister of Labour, Chris Stockwell, committed additional resources to the Tribunal. As a result of the Minister's commitment, the Tribunal was able to increase its roster of adjudicators (to 85, including side Members) and finally begin a renovation project to accommodate additional adjudicators, case analysts and VCR members. The commitment of the additional resources has enabled the Tribunal to thus far achieve the very aggressive production targets which it had set for the year 2000. The combination of additional resources, industrious staff, management responsiveness and WSIB support has enabled the Tribunal to reduce its active caseload below the 7,000 level in accordance with its targets and undertakings. As adjudicators and VCR members gain experience, the number of appeal dispositions should continue to increase.

During the past year, when production was impeded by a problem with lost hearing dates and adjournments caused by unprepared representatives, the Tribunal introduced a *Code of Conduct for Representatives*. This Code, together with a Practice Direction setting out the process for dealing with complaints regarding representatives, was a timely innovation and drew the attention of both the Law Society of Upper Canada study on paralegals, and the Attorney General's review of paralegals in Ontario headed by Mr. Justice Cory.

The Tribunal also continued to expand its use of information technology. All Tribunal decisions are now available on Quicklaw. The Tribunal's website (www.wsiat.on.ca) now contains information on filing appeals, copies of Practice Directions, Appeal Applications and information on Tribunal processes. To deal with the heavy caseload, the Tribunal began the design and implementation of a new case management system to help streamline the appeal process and provide greater flexibility for future operations. Part of the Tribunal business plan involves an increased use of information technology to improve the appeal process and, ultimately, to access the WSIB system which is being developed under the Board's Agility Project. In an age of e-commerce, the Tribunal is moving in the direction of e-adjudication as a cost-effective tool in reducing processing timelines and dealing efficiently with large volumes. The ultimate goal is to transform the Tribunal from a paper-driven appeals body totally dependent upon WSIB paper files, into an IT-based, re-engineered agency offering a flexible process which will generate faster appeal dispositions. Increased reliance upon information technology, adjudicative techniques such as "whole person" adjudication and the WSIB "certification" of hearing-ready appeal files should help streamline both the WSIB and WSIAT adjudicative processes.

Over the next year, the Tribunal will continue to refine its adjudicative processes and administrative practices in an attempt to create further efficiencies and achieve its goal of "nimble justice". The foundation which has been laid, together with ongoing improvements to management structure, the case management system and appeal streams, should continue to improve the quality of adjudicative service provided to the injured worker and employer communities by the Tribunal, as part of the administrative justice system for the Province of Ontario.

Update from the Executive Director

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Staff review files as they are able to place them on the hearing schedule. In this way, staff and party file reviews are fresh at the time the case is proceeding to hearing. If a case cannot proceed to hearing (for instance due to outstanding related appeals at the Board) it is placed in inactive status.

The Registrar's Information Centre (RIC) continues to respond to inquiries for files which are not assigned to Tribunal staff for a screening or other process.

Changes to Practice Directions

The Appeals Tribunal amended its Practice Direction, *Inactive Files*, effective July 10, 2000. The Practice Direction provides for a case to become inactive where the appellant is unable to proceed and lists examples of such circumstances. When the appellant is ready to proceed, the case will be reactivated and proceed in the normal course. The Tribunal and the parties use inactive status as a case management tool, so that cases that are not ready to proceed, do not form part of the active lists from which cases are processed to hearing.

WSIAT Public Information Sessions: September and October, 2000

The Tribunal conducted community information sessions in the fall of 1999. This fall, the Tribunal will again conduct meetings, free of charge, in order to report back to the community regarding the status of backlog reduction, process changes, new projects for the coming year, and most importantly, to hear about party experiences with Tribunal process. The Tribunal needs to hear from those who use its services in order to improve them. We welcome your attendance at these meetings. **Please see the announcement as to time, date and location in this issue of *WSIAT In Focus*.**

New Two-Part Appeal Application

The Appeals Tribunal is amending its Appeal Application (AA) in order to improve case processing. With the two-part AA, an appellant will be able to register the appeal within the six-month time limit by using Part 1. The Tribunal will give notice of the appeal to the respondent, but no further steps will be taken to process an appeal until the receipt of Part 2. Part 2 will ask the appellant to provide up-to-date and complete information on the appeal. Upon receipt of a complete Part 2, the Tribunal will immediately order the claim file from the Board, and process the case to hearing. **Copies of the draft Appeal Application are provided with this edition of *WSIAT In Focus*.**

If you have comments or questions on any of the foregoing, please feel free to contact Zeynep Onen, Executive Director, at 314-8924.

EIM MISSION STATEMENT

Commitment

Early Intervention Mediation (EIM) is an ongoing project of the Tribunal. EIM's objective is to facilitate the early resolution of appeals in a just and impartial manner through various case management strategies.

Goals

The sole purpose of EIM is to achieve early resolutions to appeals with neutrality, fairness and without prejudice while clearly communicating to the parties that they maintain their right to proceed to a hearing or any remedy within the scope of the Tribunal's mandate.

The mediator assigned to an appeal is governed by Tribunal procedures and practices to discover a basis for resolving the appeal in a manner that might reasonably be made by a Panel or Vice-Chair of the Tribunal.

If EIM is unsuccessful, the mediator will attempt to resolve factual issues in the appeal or identify evidentiary problems prior to sending the appeal to a hearing. The mediator will also make recommendations on the hearing format (i.e., written versus an oral hearing process) in order to expedite the scheduling of appeals. In order to maximize the number of appeals heard and minimize cost, space utilization and Vice-Chair/Panel's time, mediators will also attempt to batch hearings with similar criteria together.

EIM ensures that cases are disposed of in a fair and efficient manner, whether it be through mediation or the hearing process. EIM is committed to the best utilization of resources, both for stakeholders and for the Tribunal, itself, in order to manage its caseload in a more efficient and productive manner.

REVISED PUBLICATIONS

Members' Code of Professional and Ethical Responsibilities

The *Members' Code of Professional Responsibility* has been revised (as of June 14, 2000) and renamed the *Members' Code of Professional and Ethical Responsibilities*. It is available from the Publications Department.

Practice Directions

The Practice Direction, *Inactive Files*, was revised, effective July 10, 2000.

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TRIBUNAL MEMBERS

Since the last issue of *WSIAT In Focus* (March 2000), the following have been re-appointed as:

Tribunal Chair

Ian J. Strachan, effective July 1, 2000

Full-time Vice-Chair

Diane J. Ballam,
effective July 28, 2000
Kenneth W. Dechert,
effective August 5, 2000
Sophie Martel,
effective June 7, 2000
Nick McCombie,
effective July 1, 2000
Rosemarie McCutcheon,
effective June 7, 2000
John Paul Moore,
effective May 1, 2000
Sara J. Sutherland,
effective September 6, 2000

Part-time Vice-Chair

Bruce Alexander, effective May 3, 2000
Jean Guy Bigras, effective July 1, 2000
Patrick N. Bowles, effective May 3, 2000
Brian Cook, effective September 6, 2000
M. Melvin Crystal, effective May 3, 2000
Marsha Faubert, effective July 1, 2000
William F. Flanagan, effective June 1, 2000
Lila Maureen Kenny, effective July 1, 2000
Lawrence Henry Kroeker, effective July 7, 2000
Victor Marafioti, effective July 1, 2000
Joy McGrath, effective July 1, 2000
Gary W. McMahan, effective May 3, 2000
Zeynep Onen, effective October 1, 2000
Virginia Robeson, effective July 1, 2000
Joanne Sajtos, effective May 28, 2000
Antonio Signoroni, effective October 1, 2000

Part-time Member representative of employers

Angelo Cremisio, effective May 3, 2000
C. James Robb, effective July 1, 2000
Robert Sherwood, effective May 3, 2000
Brian Wheeler, effective April 19, 2000