

Closing Appeals By the Tribunal

1.0 This Practice Direction explains the procedures for closing appeals when appellants or their representatives fail to:

- provide a completed Notice of Appeal form
- provide a complete Confirmation of Appeal form within a prescribed time period
- take action following an unsuccessful Tribunal mediation or following an adjournment
- respond to Tribunal communications.

2.0 Tribunal Closing of Appeals

2.1 The Tribunal has a procedure for closing appeals where it appears that the appellant has abandoned the appeal. For example, the Tribunal may close appeals where the appellant fails to

- complete a Notice of Appeal (NOA) or Confirmation of Appeal (COA) in a timely manner
- respond to Tribunal communications or
- act pursuant to an interim decision or ruling.

2.2 A Tribunal Vice-Chair issues a letter providing notice of intention to close the appeal. The letter is sent by mail to the last address on file for all the parties and includes a request that the appellant (or representative) respond within a set period of time.

2.3 If no response is received or the letter returns undelivered, the appeal is closed without further notice.

2.4 If a response is received from the appellant (or representative), the Tribunal responds to the information as appropriate and may:

- continue preparing the appeal for a hearing
- make the appeal inactive (see *Practice Direction – Inactive Appeals*)

- refer the appeal to a Tribunal Vice-Chair.

2.5 If the matter is referred to a Tribunal Vice-Chair, s/he may:

- make the appeal inactive (see *Practice Direction – Inactive Appeals*)
- instruct Tribunal staff to close the appeal without issuing a decision
- issue directions to the parties governing the further processing of the appeal
- issue a decision finding that the appeal has been abandoned or withdrawn
- in appropriate circumstances, refer the appeal for a hearing.

2.6 Where the Vice-Chair instructs that an appeal be closed or issues a decision that an appeal has been abandoned or withdrawn, the appeal is closed. Once closed, any new appeal would be considered out of time because of the statutory time limits under the *Workplace Safety and Insurance Act* (see *Practice Direction: Time Extension Applications*).

3.0 Incomplete Notice of Appeal

3.1 Notice of an appeal is only complete when the appellant provides a completed Notice of Appeal form (NOA) (including a copy of the decision appealed). The Tribunal returns incomplete NOA forms and requests the missing information.

3.2 If the appellant does not provide the missing information within a reasonable timeframe, a Notice of Intention to close the appeal is sent. The letter provides notice that the appeal will be closed unless the missing information is provided within **60 days**.

3.3 If the appellant provides a completed Notice of Appeal within **60 days**, the Tribunal continues preparing the appeal for a hearing.

3.4 If the appellant does not complete the notice of appeal requirements within **60 days**, the Tribunal deems the appeal withdrawn and closes the file.

3.5 Any new appeal of the same decision would need to meet the applicable time limits and may require a time extension application (see the *Practice Direction: Time Extension Applications*).

4.0 Missed Confirmation of Appeal Time Limit

- 4.1 The Confirmation of Appeal (COA) must be filed no later than 24 months after the appellant first contacted the Tribunal. The Tribunal provides two reminder/warning notices to the appellant before the 24 month time limit. The reminder notice states when the 24 month time limit expires.
- 4.2 When an appellant does not complete a COA within 23 months, the Tribunal sends a Notice of Intention to close the appeal. The letter provides notice that the appeal will be closed unless a completed COA is provided within **30 days**.
- 4.3 If a completed COA is provided within the 30 day period, the Tribunal continues preparing the appeal for a hearing.
- 4.4. A referral to a Vice-Chair will be made where:
- the appellant provides reasons why the appeal is not ready to proceed to a hearing
 - the appellant provides a completed COA but states that the appeal is not ready to proceed to a hearing
 - there is no response to the letter by the end of the 30 day period, or
 - the letter is returned to the Tribunal with no forwarding address.
- 4.5 A Vice-Chair will then consider the appeal and may:
- make the appeal inactive (see *Practice Direction: Inactive Appeals*)
 - instruct Tribunal staff to close the appeal without issuing a decision
 - issue directions to the parties governing the further processing of the appeal
 - issue a decision finding that the appeal has been abandoned or withdrawn
 - in appropriate circumstances, refer the appeal for a hearing.
- 4.6 Where the Vice-Chair instructs that an appeal be closed or issues a decision that an appeal has been abandoned or withdrawn, the appeal is closed. Once closed, any new appeal of the same decision would need to meet the applicable time

limits and require a time extension application (see the *Practice Direction – Time Extension Applications*).

5.0 Mediations with No Recommendation

- 5.1** When a Tribunal mediation does not result in a recommendation to a Tribunal Vice Chair, it is sometimes unclear if the appellant wishes to continue to a hearing.
- 5.2** In such instances, the Tribunal writes to the appellant (and representative) asking that they advise the Tribunal within 30 days if they intend to continue with the appeal.
- 5.3** If the appellant does not respond to the mediator’s letter, a Notice of Intention to close the appeal is sent. The letter provides notice that the appeal will be closed unless s/he confirms their intentions within **60 days**.
- 5.4** If the appellant does not contact the Tribunal to confirm their intentions within 60 days, the Tribunal deems the appeal withdrawn and closes the file.
- 5.5** Any new appeal of the same decision would need to meet the applicable time limits and require a time extension application (see *Practice Direction – Time Extension Applications*).

6.0 Procedure: Failure to Act Following an Adjournment

- 6.1** When a Tribunal appeal is adjourned, it is sometimes unclear if the appellant wishes to continue with their appeal to a hearing.
- 6.2** The Tribunal writes to the appellant (and the representative) after an appeal is adjourned to ask the appellant to confirm if s/he intends to proceed with the appeal and, if so, when s/he will be ready to continue.
- 6.3** If an appeal was adjourned following an interim decision or ruling by a Panel or Vice-Chair, the appellant will also be asked to identify the steps they have taken to carry out any action required by the Vice-Chair or Panel.
- 6.4** The appellant has **60 days** to provide this information.

- 6.5** After receiving the appellant's response, or after the 60 day time limit has expired, a Vice-Chair or Panel may decide:
- (a) the appeal is abandoned and should be deemed withdrawn; or
 - (b) to refer the appeal for a hearing; or
 - (c) to issue directions to the parties governing the further processing of the appeal.
- 6.6** If a Vice-Chair or Panel is seized, they will make this decision. In some situations, the Chair of the Tribunal may exercise his discretion and place the matter before another Vice-Chair to make this decision.
- 6.7** Where a Vice-Chair or Panel deems an appeal to be withdrawn, the Tribunal closes the file.
- 6.8** Any new appeal of the same decision would need to meet the applicable time limits and require a time extension application (see *Practice Direction – Time Extension Applications*).

Dated at Toronto, Ontario this first day of October, 2007
Workplace Safety and Insurance Appeals Tribunal
I.J. Strachan, Tribunal Chair