

Fees and Expenses

1.0 This Practice Direction:

- identifies who may be repaid for expenses to attend a hearing
- explains what expenses related to attendance at a hearing will be paid by the Tribunal
- explains when the Tribunal will pay
- identifies who will decide what expenses will be paid by the Tribunal.

This practice direction does not apply to right to sue applications under section 31 of the Act. (See *Practice Direction: Right to Sue Applications*)

2.0 Who Will Be Reimbursed For Expenses To Attend A Hearing?

- 2.1** The *Workplace Safety and Insurance Act* allows the Tribunal to pay injured workers and their witnesses for certain expenses for their attendance at a hearing, or to pay the expenses of a worker where the Tribunal directs the worker be seen by a doctor who prepares a report for the Tribunal (section 133 of the *Workplace Safety and Insurance Act*).
- 2.2** The Tribunal does not pay expenses for employers or their witnesses as this is not provided for in the *Workplace Safety and Insurance Act*.
- 2.3** The Tribunal may publish from time to time Schedules setting out the allowable amounts to be paid for fees and expenses under this Practice Direction.

3.0 What Expenses Will Be Paid By The Tribunal?

- 3.1** The Tribunal holds hearings in a number of cities throughout Ontario. Workers and their witnesses who live outside the city area where the hearing takes place may claim allowable out-of-pocket expenses for their attendance at the hearing.
- 3.2** To obtain repayment of expenses, a party must complete and send to the Tribunal a Hearing Expense Claim, attaching all required receipts to the form.

3.3 A worker and a worker's witness may submit a claim for the following expenses:

- meal allowances – up to a daily and per meal maximum
- parking – with a receipt, up to a daily maximum. Without a receipt, a minimum flat rate will be repaid
- travel – Train or inter-city bus fare is paid; a receipt must be submitted to claim this expense. If you drive a car, mileage is paid based on a set rate
- witness fees – if the worker or his or her witness has lost wages in order to attend on the hearing day or days, the Tribunal will pay for the lost wages, subject to a daily maximum. If a summons has been served, any money already sent with the summons will be deducted from the amount to be paid for lost wages. Except in extraordinary circumstances, payments for witnesses' lost wages will be limited to the day or days on which they testify.

3.4 In some cases, the Tribunal will pay for reasonable costs for hotel accommodation for a worker and a worker's witness. The Tribunal's Scheduling Department may help workers and workers' witnesses with arrangements for transportation and hotel accommodation. The Tribunal will consider these factors when it makes a decision about whether to pay these costs:

- whether the worker or witness must travel more than 200 kilometers one way to attend the hearing
- the time the hearing starts; and
- weather conditions.

3.5 The Tribunal may pay for a portion of the travel expense for travel from outside Ontario. It will generally pay expenses for travel from Winnipeg in the west and Montreal in the east. For example, if a worker travels by air from British Columbia, the Tribunal would reimburse the worker for the cost of a return airline ticket from Winnipeg to the hearing location.

3.6 Where the Tribunal has arranged for a doctor to examine a worker, the Tribunal will pay the worker's expenses for travel to the medical appointment. The worker should send a request for this payment to the Medical Liaison Office. The Tribunal will apply the same rates as for hearing expenses.

3.7 A party who files an expert report pays for the report. A party who calls an expert as a witness pays the full fee of the expert. In exceptional circumstances, the Tribunal may pay the costs of an expert witness for a worker. (See *Practice Direction: Expert Evidence*).

4.0 When the Tribunal will Pay: Getting Approval

4.1 The Tribunal reimburses workers for expenses for attending a hearing only after it receives the completed Hearing Expense Form. Workers must support expense claims with receipts and information as required by the Tribunal.

4.2 In exceptional circumstances, the Tribunal may issue a travel advance to a worker prior to the hearing date. A worker may ask for a travel advance by sending a written request for the advance to the Tribunal's Scheduling Department at least 6 weeks before the hearing date. After the hearing, the worker must submit a completed Hearing Expense Claim form and account for the advance provided by the Tribunal.

4.3 A worker may ask for assistance with travel, hotel accommodation, and payment of costs for travel from outside Ontario or advance payments by making a written request to the Tribunal's Scheduling Department at least 6 weeks before the hearing date.

5.0 Who Decides What Expenses Will Be Paid By The Tribunal?

5.1 Tribunal staff will decide payment issues that are covered by this Practice Direction. Staff may request further information to assist with the decision making process. In exceptional cases, staff may request a Tribunal Vice-Chair or Panel to determine an issue related to expenses.

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