

## Hearing Assignments

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### 1.0 This Practice Direction:

- explains the process for assigning Vice-Chairs and Panels to hearings.

### 2.0 Legislation

2.1 The Tribunal Chair assigns hearings to Vice-Chairs to decide matters under the Act (*Workplace Safety and Insurance Act*, section 174 (2)). Vice-Chairs decide most cases.

2.2 If the Tribunal Chair considers it appropriate in the circumstances, the Chair may assign a Panel to hear a matter. The Panel shall consist of a Vice-Chair, a Member representing workers and a Member representing employers. (Section 174(3) of the *Act*)

2.3 The Tribunal Chair may also hear cases, either sitting alone or as the Chair of a Panel.

### 3.0 Panel Assignments

3.1 In deciding whether to assign a Panel, the Tribunal Chair gives particular consideration to whether the case involves:

- medical/scientific issues which have important implications for the workplace insurance system
- novel legal interpretations, particularly under new legislation
- significant credibility findings which require a “jury-like” determination
- issues where Tribunal case law is still developing and a need exists for a particularly well-reasoned decision reflecting both employer and worker perspectives
- new hearing techniques or procedures; and/or
- significant financial consequences for the Insurance Fund, particularly where only one party is participating.

#### **4.0 Requests for Panel Assignments**

- 4.1** If an appellant wants to ask for a Panel to hear his or her appeal or application, s/he should make a written request at least 8 weeks prior to the hearing date. The request must contain reasons and should consider the factors in 3.1.
- 4.2** The appellant must send the request to the Appeals Administrator and send a copy of the request to all parties participating in the hearing.
- 4.3** The Tribunal Chair will review the request and make a decision. The Appeals Administrator will advise the parties in writing of the Tribunal Chair's decision.
- 4.4** If an appellant has not requested that a Panel hear his or her appeal or application, s/he may learn whether a Panel or Vice-Chair has been assigned by contacting the Tribunal within 4 weeks of the scheduled hearing. The Tribunal will not disclose the identity of the Panel or Vice-Chair before the hearing unless the Panel or Vice-Chair has made a pre-hearing ruling.
- 4.5** Occasionally unforeseen circumstances may prevent a Member from appearing at a hearing. After considering the parties' views, the Tribunal Chair may authorize the Vice Chair to proceed to hear the matter alone.
- 4.6** A request for a Panel should not be made at the hearing. The Act does not give a Vice Chair the authority to grant such a request.

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