

# APPEALING TO WSIAT

## The Workplace Safety and Insurance Appeals Tribunal

The Workplace Safety and Insurance Appeals Tribunal (WSIAT) is the final level of appeal to which workers and employers may take disputes. WSIAT is separate from and independent of the Workplace Safety and Insurance Board (WSIB). WSIAT, however, is required to apply WSIB policy when deciding appeals. WSIAT can only hear an appeal when there is a final decision from WSIB.

### Time Limits for Decisions Made Before January 1, 1998

Any WSIB decision made before January 1, 1998 had to be appealed by June 30, 1998. This includes appealing a final WSIB decision to WSIAT.

### Time Limits for Appeals to WSIAT

You have **6 months** from the date of a **final** WSIB decision to appeal that decision to WSIAT. There are certain types of WSIB decisions that you cannot appeal to WSIAT, including decisions about employer-requested health exams and some commutations. It is recommended that you meet the **time limit** first and then consult with a qualified representative, even if you are unsure whether your decision can be appealed to WSIAT.

If you discover that you have missed an appeal **time limit**, you should obtain help from a qualified representative as soon as possible. See OWA Fact Sheets 27 and 28 called “Extensions of Time Limits at WSIB” and “Extensions of Time Limits at WSIAT”.

### Who Can Appeal to WSIAT?

You can appeal to WSIAT if you are:

- an injured worker or an injured worker’s employer
- the spouse (which now includes same-sex partners), dependant, or estate of a deceased injured worker

### How Do You Appeal a Final WSIB Decision?

Appeals of final WSIB decisions are made to WSIAT. Final WSIB decisions are usually decisions made by an Appeals Resolution Officer (ARO). **You must complete the WSIAT Notice of Appeal (NOA) form and return it to WSIAT within 6 months of the date of the final decision from WSIB.** The NOA form is included in the OWA Workers’ Kit called [Appealing WSIB Decisions](#). You may also obtain the NOA form from WSIAT by calling 1-888-618-8846. You should include a copy of the decision you are appealing along with the NOA form. Send these documents to WSIAT by fax or registered mail to ensure you have proof of having met the **time limit** by way of receipt. Please remember to keep the fax confirmation slip or registered mail receipt for your own records.

### What Happens Next?

WSIAT will send you a Readiness Letter acknowledging receipt of your NOA form. By signing the Readiness Letter, you are confirming that you are prepared to tell WSIAT everything they need to know to schedule your case for a hearing. Once WSIAT receives your Readiness Letter, they will prepare the Case Record.

### What Is the Case Record?

The Case Record is the written evidence that WSIAT will review when hearing your appeal. The Case Record should contain all the relevant WSIB files. Once the Case Record is prepared, WSIAT will send it to you along with a Confirmation of Appeal (COA) form.

Your appeal will remain on a WSIAT Notice of Appeal List until such time as your completed Confirmation of Appeal (COA) form is received by WSIAT. A case can remain on the Notice of Appeal List for up to **two years**, at which time WSIAT will decide whether to consider the appeal abandoned. After receiving the Case Record, carefully review the contents to make sure that all the necessary documents from your file(s) are included. Any missing or additional information should be sent to WSIAT along with the COA form. If you do not send this information along with the COA form, WSIAT may not accept it at a later date. If you obtain new information or evidence after completing the COA form, you must send it to WSIAT at least **3 weeks** before the scheduled hearing date.

### Completing the Confirmation of Appeal

When you complete the Confirmation of Appeal (COA) form, you need to advise WSIAT of the following:

- whether you want your hearing held in English or French,
- whether you need an interpreter at your hearing and the language of preference,
- whether you would rather have a hearing in writing. WSIAT will accept a written hearing if the matter is fairly simple and straightforward and you are not required to prove you are telling the truth. If, for example, your employer insists the accident did not happen the way you said, then you need to attend an oral hearing so that WSIAT can decide who to believe,
- whether you want to try alternative dispute resolution (ADR). Under this option, also known as mediation, WSIAT staff will attempt to resolve your appeal without the need for a full hearing. If you and your employer cannot come to an agreement at mediation, you will then proceed with a written or oral hearing,
- whether you have any other WSIB claims,
- whether you have any new evidence and, if so, include a copy of it,
- witnesses (other than you) that will testify on your behalf at your hearing and what each witness will say,
- whether you need a summons for any witness. A summons is an order from WSIAT demanding that a person appear and testify at your hearing. You only need a summons if the witness does not agree to come to the hearing and if the evidence the witness can give is necessary for the appeal.

**Note:** You must send the completed COA form and any additional evidence to both WSIAT and any other party. In most cases, the other party would be the employer(s) you worked for at the time of your injury. If the accident employer is participating in the hearing, they will need to complete a Response form and identify any new evidence and/or witnesses.

### What Is the Early Review Department?

The Early Review Department reviews all WSIAT appeals to ensure your case is ready for hearing, and decides whether WSIAT should: hold an oral hearing, try mediation, or proceed with written submissions. If the Early Review Department determines your case is not ready to proceed, they will contact you, usually by letter, advising you how to prepare for the hearing. If your case is ready for an oral hearing, someone from the WSIAT Scheduling Department will call you to set a date. For information on oral hearings, see OWA Fact Sheet 29 called “Hearing Tips”. For guidelines on written and oral submissions, see OWA Fact Sheet 30 called “Submissions”.

#### **IMPORTANT INFORMATION**

There are time limits for appealing WSIB decisions. If you wish to appeal a decision, contact a qualified representative as soon as possible. For more information on time limits, see OWA Fact Sheets 24 and 25 called “Appealing to WSIB” and “Appealing to WSIAT”.

**This Fact Sheet contains general information only. It is not a legal document. To see what the law says, you should look at the Workplace Safety and Insurance Act and WSIB policies. If you require help and do not have a union to assist you, contact the Office of the Worker Adviser:**

- Our toll free telephone number is 1-800-435-8980 (English) or 1-800-661-6365 (French)
- or visit our website at <http://www.owa.gov.on.ca>

*Cette feuille-info est aussi disponible en français*

