

EXTENSIONS OF TIME LIMITS AT WSIAT

What Time Limits Apply?

Under the *Workplace Safety and Insurance Act*, the time limit to appeal a final decision of the Workplace Safety and Insurance Board (WSIB) to the Workplace Safety and Insurance Appeals Tribunal (WSIAT) is **six months**. The final WSIB decision will usually be at the level of an Appeals Resolution Officer (ARO). For details, see OWA Fact Sheet 25 called “Appealing to WSIAT”.

What If You Did Not Appeal on Time?

You must complete and return the **Notice of Appeal** (NOA) form to WSIAT as soon as possible. You can find the WSIAT **Notice of Appeal** (NOA) on the OWA Website under Workers’ Kits: [Appealing WSIB Decisions](#) or you can contact your nearest OWA office for a copy of this form. You may also obtain a NOA by phoning WSIAT directly at 1-888-618-8846.

You should send your completed NOA along with a copy of the decision you are appealing to WSIAT by fax or registered mail, so you have proof of delivery in the form of a fax or mail receipt. Please remember to keep the fax confirmation slip or registered mail receipt for your own records. If you discover you have missed a time limit, you should seek help from a qualified representative as soon as possible. WSIAT has the power to **extend time limits**.

WSIAT will identify the **time limit** issue by sending you a letter stating that the notice of appeal was received late and asking that a time extension application be filed with WSIAT within **one month**. In that application, you should explain, in writing, your reason(s) for requesting a time limit extension. For general guidelines on preparing submissions, see OWA Fact Sheet 30 called “Submissions”.

What Will WSIAT Consider in a Time Extension Application?

In deciding whether to extend the time limit, WSIAT will consider the factors that are listed in the WSIAT Practice Direction called “Time Extension Applications”, including:

- your explanation of why the Notice of Appeal was not filed on time.
- whether there is evidence you filed the appeal at an earlier time. For example, you have a fax receipt or date-stamped letter that confirms you appealed on an earlier date.
- whether there is any evidence you were trying to appeal before the **six-month time limit** ended. For example, perhaps you sent your NOA form to WSIB rather than WSIAT by mistake, or you tried to speak to a representative about making an appeal, or you called WSIAT for information, or anything else that indicates you were planning to appeal.
- whether there are unusual circumstances and you did not know about the time limit (for example, you cannot read English). If you did not know about the time limit, you need to explain why. Since January 1, 1998, WSIB has displayed the **time limit** on the cover page of all final decisions; therefore you are expected to know about the time limit.
- whether there are unusual circumstances that prevented you from meeting the time limit. This could be anything out of the ordinary that explains the delay. For example, a very serious illness or other family situation.
- whether there were unusual delays or other WSIB matters that are relevant to the timing of the appeal. For example, a significant delay in receiving the final WSIB decision.
- whether you requested that WSIB reconsider the decision you are appealing, in particular, any reconsideration requests made within six months of the original decision.
- whether you made efforts to file the appeal on time.

- whether the case is so old that it cannot be reasonably decided. An old case is one where a lot of time has passed and the memories of witnesses are fading. You need to show this is not the situation in your case.
- whether the issue in the late appeal is so connected to another appeal (which is on time) that WSIAT cannot reasonably decide the other appeal without also looking at the late appeal.
- whether a refusal to extend the appeal time limit would be very unfair, especially because of circumstances in your case. For example, perhaps you never had an in-person (oral) hearing or the ARO stopped you from presenting relevant evidence at your hearing. These could be valid reasons for extending the time limit in your appeal. Your problem with fairness should be specific to your case.
- whether the delay, caused by you missing the time limit, will make it more difficult for your employer to argue its case than it otherwise would have been, had your appeal been made on time. If your employer is not participating in the appeal, you should point this out as it may mean the delay will not affect the employer's case.

Although you are not expected to use all the examples above, you should use all those that apply to your specific case.

Do You Need to Send Anything Else to WSIAT?

WSIAT does not order the WSIB file when reviewing time extension applications. When considering your application, the decision-maker will only have access to your submissions and anything else you sent to WSIAT. It is very important that you send any relevant evidence along with your submissions. This includes copies of any letters or other documents that support what you say.

What Happens Next?

WSIAT will send copies of your submissions and evidence to any other party involved in the appeal, usually the accident employer. The other party will then be given **one month** to provide their own submissions and evidence to WSIAT. WSIAT will send you a copy of the other party's submissions and evidence once they become available. All the material will then be placed before a Vice-Chair to decide. You will receive a written copy of the decision in the mail. If the decision is in your favour, you will be able to proceed with your appeal in the normal way.

What If WSIAT Does Not Extend the Time Limit?

If WSIAT denies the extension of time to appeal, you can request a reconsideration of that decision. Please note that WSIAT decision-makers rarely change a decision on reconsideration. You should only ask for a reconsideration if you have additional evidence that you think might be of value. For example, you should ask for a reconsideration if you suddenly found a fax transmission report showing you had faxed your NOA form on time. The additional evidence would have to be something very significant. If you are thinking about asking for a reconsideration, speak to a qualified representative as soon as possible.

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

