

WSIAT Guidelines

For the Gradual Resumption of In-Person Hearings During COVID-19

Revised December 2, 2022



Workplace Safety and Insurance
Appeals Tribunal

Tribunal d'appel de la sécurité professionnelle et de
l'assurance contre les accidents du travail

TABLE OF CONTENTS

INTRODUCTION TO THE REVISED GUIDELINES	3
STEPS TAKEN TO PREPARE FOR A RETURN TO IN-PERSON HEARINGS	4
Minimizing Risk	4
Criteria for In-Person Hearings at the Tribunal.....	4
Accessibility.....	6
Preparing for the In-Person Hearing – Preparing the WSIAT’s Offices and Regional Hearing Locations	6
ATTENDING AN IN-PERSON HEARING - AT THE WSIAT OR AT A REGIONAL HEARING LOCATION	7
WSIAT Communications	7
Entrance and Exit Protocol	7
<i>Personal Protective Equipment (PPE) and Face Coverings</i>	7
<i>Signage and Markers</i>	7
<i>Checking In for Your In-Person Hearing</i>	7
<i>COVID-19 Screening</i>	8
Inside the Hearing Room	8
<i>WSIAT Guest Wi-Fi</i>	8
<i>Hearing Room Configuration</i>	8
<i>Public Washrooms</i>	8
<i>Breaks</i>	9
<i>Documents</i>	9
<i>Cleaning of WSIAT Hearing Rooms</i>	9
PROBABLE OR CONFIRMED CASE OF COVID-19	9
APPENDIX A – IN-PERSON HEARINGS PARTICIPANT INFORMATION SHEET	10
Before the Hearing	10
Hearing at WSIAT Office – When You Arrive at the WSIAT’s Offices.....	10
Hearing at a Regional Hearing Location - When You Arrive at the Hotel for a Regional Hearing	11

Introduction to the Revised Guidelines

Based on feedback from stakeholders, OICs and staff, the WSIAT has decided to work towards changing the default hearing method from teleconference to videoconference, with this change anticipated to launch in the fall of 2022.

In addition, while the WSIAT will, for the time being, continue to focus on alternative hearing methods (videoconference, teleconference, or written) as the primary means of providing ongoing access to justice, it will, with the recent relaxing of many public health restrictions, also begin its preparations to gradually increase the number of in-person hearings.

As the WSIAT considers how best to proceed, its decisions will continue to be guided by the following values and commitments:

1. Protecting the health and safety of employees, OICs and stakeholders;
2. Ensuring access to justice; and
3. Delivering excellence in adjudication, which includes conducting fair hearings in accordance with the principles of natural justice and issuing well-reasoned decisions in an efficient manner.

As the COVID-19 situation continues to evolve, the Guidelines may be revised.

Steps Taken to Prepare for a Return to In-Person Hearings

Minimizing Risk

The WSIAT actively monitors COVID-19 developments and will continue to follow guidance provided by legislation, the Ministry of Health, the Chief Medical Officer of Health and other public health officials when making operational decisions.

When an alternative hearing method is not appropriate, and an in-person hearing is required, the WSIAT has put in place precautions to ensure that the WSIAT's offices and hearing facilities are as safe as possible. These precautionary steps may include physical distancing, enhanced cleaning, and engineered and administrative controls, which are explained below.

Criteria for In-Person Hearings at the Tribunal

Effective Autumn 2022:

- The default hearing method is videoconference.
- Parties may request an in-person hearing or a teleconference, as an alternative to a videoconference.
- There will be a gradual increase in the availability of in-person hearings.
- The availability of in-person hearings will be determined by the Tribunal, in its sole discretion, with regard to the factors set out below.

During this transitional period, parties should be aware that there may be longer wait times for in-person hearing dates, due to increased staffing needs (such as Hearing Ambassadors, IT support, and security staff) or other logistical or resource needs to support in-person hearings. Regional hearings may also be subject to longer wait times due to availability of suitable regional hearing rooms and related resource needs.

The Tribunal's decision regarding the appropriate hearing format will be based on the needs of the parties, not the needs of the representatives. The Tribunal's expectations for representatives include an expectation of a level of reasonable technological competency (see [Worsoff v MTCC 1168, 2021 ONSC 6493](#) at para 32).

Factors that may indicate an in-person hearing is appropriate:

The criteria that the Tribunal will consider in determining whether an in-person hearing is required or appropriate have been expanded.

The factors that may be considered by the Tribunal in determining whether an in-person hearing is appropriate or necessary include but are not limited to the following:

1. Whether the hearing will be able to proceed in-person in compliance with all applicable health and safety guidelines and requirements related to COVID-19, or otherwise.
2. Whether a party is unable to participate in a videoconference hearing due to technology barriers, that cannot be addressed through the WSIAT [Guidelines for Teleconference and Videoconference Hearing Expenses](#) or other reasonable means.
3. Whether there is a request for an accommodation for a *Human Rights Code* related need that cannot be met through a videoconference format.
4. Whether a party is unable to participate in a videoconference hearing due to health issues.
5. Whether there is a self-represented party with unique needs (including the ability to access and use technology, and/or the need for support to use technology).
6. Whether there is a suitable hearing room available in the location where the in-person hearing would take place.
7. Whether, due to the nature or complexity of the issues or the evidence, an in-person hearing would be more appropriate.
8. Whether the in-person hearing will be able to proceed in accordance with the principles of natural justice and in a fair manner.
9. Any other relevant and valid reasons why a remote electronic hearing might not be appropriate, including any personal circumstances of a party or participant.

The presence of one or more of these factors does not necessarily mean that an in-person hearing will be granted by the Tribunal.

More information, including the procedure for requesting an in-person hearing, is set out in the [Interim Guideline on the Gradual Resumption of In-Person Hearings – Phase Two](#).

If it is determined that an in-person hearing is appropriate, scheduling priority will be given to time-sensitive matters.

In some instances, a hybrid hearing method (in-person and teleconference or videoconference) may be utilized when it is determined that not all parties and/or hearing participants are able or are required to participate in person.

Accessibility

The WSIAT is committed to providing an accessible and inclusive environment for all individuals, including parties to appeals and applications. The Tribunal has successfully implemented accommodations for alternative hearing methods and alternative hearing methods continue to be preferred for health and safety reasons. In planning the resumption and gradual increase of in-person hearings, the WSIAT will continue to ensure that accessibility measures are considered, and individual needs will be accommodated.

Requests for accommodation in relation to a hearing can be made at any point in the adjudicative process, in relation to any hearing format. Requests should be detailed and they should be made as soon as possible. For matters that are not yet scheduled, parties may contact the staff person assigned to their file or the WSIAT's Call Centre. For cases in which a hearing date has been scheduled, parties should contact the Manager, Scheduling Administration.

More information can be found in the WSIAT's [Accessibility Policy for Customer Service](#) and on the WSIAT's Accessibility webpage.

Preparing for the In-Person Hearing – Preparing the WSIAT's Offices and Regional Hearing Locations

Steps have been taken to support physical distancing within the WSIAT's offices and at regional hearing locations, and may include

- Hearing room maximum occupancy levels;
- Reconfiguration of furniture in hearing rooms and waiting areas;
- Signage and visual markers;
- Capacity restrictions in elevators; and
- Staggered entry and exit times.

Plexiglass barriers may be installed as an engineered control to help prevent the transmission of COVID-19, even where physical distancing is possible.

Air purifier units with HEPA (high-efficiency particulate air) filters may be in the hearing room to support air filtration.

Attending an In-Person Hearing - at the WSIAT or at a Regional Hearing Location

WSIAT Communications

Please do not come to the WSIAT's offices unless you are scheduled for an in-person hearing.

Parties are asked to advise the WSIAT's Scheduling Department if they wish to bring an observer or support person to the hearing, so that room capacity requirements may be assessed. Requests for accommodation should be detailed and be made as early as possible before the hearing.

Please follow all of the mandated safety measures when visiting the WSIAT or a regional hearing location.

For the WSIAT's most recent announcements and communications, refer to the WSIAT's website: www.wsiat.on.ca.

Entrance and Exit Protocol

An entrance and exit protocol has been established to help stop the spread of COVID-19. Please follow any instructions on entry and exit provided by Scheduling and the Vice-Chair or Panel.

Visitors are encouraged to use hand sanitizer upon entering the building, and upon entering the hearing room.

Personal Protective Equipment (PPE) and Face Coverings

Personal protective equipment (PPE) includes surgical/procedure (medical) masks, face shields, and gloves. PPE does not include face coverings (non-medical masks).

Depending on where a hearing is taking place, all applicable guidelines, including By-Laws and required policies with respect to masks will be followed. Wearing a face mask (medical mask) or face covering is optional. If you prefer to wear a face mask (medical mask), they will be available when you check in for your hearing or you may wear your own.

Signage and Markers

Signage reminds visitors of any safety measures that must be followed. Safety signage may be posted in the building's main lobby and throughout the WSIAT's offices.

Checking In for Your In-Person Hearing

If your hearing is at the WSIAT's offices, please go to the 7th floor reception desk to check-in for your hearing, where you will be met by a Hearing Ambassador. You will be directed to your hearing room. A security guard will be stationed on floors where hearings are taking place.

If your hearing is in a regional hearing location, please do not enter the hearing room (the hotel board room) until the Vice-Chair or Panel asks you to. Follow any instructions they provide regarding when and how to enter the hearing room.

COVID-19 Screening

A COVID-19 Self-Assessment screening questionnaire must be completed on the day of your hearing. The screening can be done online at <https://ontario.ca/self-assessment/>. You must receive a result that indicates you do not need to self-isolate.

If you receive a screening assessment result that indicates you should stay home (self-isolate) or that you should seek medical attention, **please do not attend the hearing.**

Inside the Hearing Room

Access to the hearing room will require that you:

- Practice physical distancing; and
- Practice frequent and proper hand hygiene.

WSIAT Guest Wi-Fi

The WSIAT's Guest Wi-Fi will be available for hearing participants on the day of their hearing only. To utilize the WSIAT's Guest Wi-Fi, each individual hearing participant must agree to the Terms and Conditions for Using WSIAT Guest Wi-Fi.

Hearing Room Configuration

The layout of furniture in the hearing room has been configured to support physical distancing between the parties and the Vice-Chair and Panel members. Seating may be assigned.

Public Washrooms

At the WSIAT, fully accessible public washrooms are located on the 7th floor.

Breaks

A WSIAT staff member or the Vice-Chair/Panel will direct parties to the areas they may use during breaks in the hearing. Witnesses should remain at the 7th floor reception area until they are called to the hearing room.

Documents

Send all documents to the Tribunal well before the hearing, if you would like the Vice-Chair or Panel to have them for the hearing.

Cleaning of WSIAT Hearing Rooms

In addition to the WSIAT's regular cleaning schedule, hearing rooms may undergo enhanced cleaning twice daily. In addition, sanitizing cleaning supplies will be available in the hearing room for visitors to clean their personal areas within the hearing room before use and after use.

Probable or Confirmed Case of COVID-19

If a WSIAT OIC, staff member, or visitor becomes unwell with COVID-19 symptoms while at the WSIAT's offices or at a regional hearing, or attends at the WSIAT's offices or a hearing and is subsequently confirmed to have COVID-19, they will be asked to:

- Self-isolate and leave the building immediately, if possible.
- Use the Ontario Self-Assessment Tool, and/or contact Telehealth, or their health care provider, or their local public health unit to seek guidance and testing, if recommended.
- WSIAT staff and OICs will also be asked to notify their manager immediately.

It is important to note that contracting COVID-19 is a health and safety issue and no one should fear any stigma or reprisal for reporting an exposure to or symptoms of COVID-19.

Appendix A – In-Person Hearings Participant Information Sheet



Workplace Safety and Insurance
Appeals Tribunal

Tribunal d'appel de la sécurité professionnelle et de
l'assurance contre les accidents du travail

In-Person Hearings Participant Information Sheet

Before the Hearing

- Complete the COVID-19 Self-Assessment [<https://ontario.ca/self-assessment/>]. You must receive a result that indicates you do not need to self-isolate. If you receive a screening assessment result that indicates you should stay home (self-isolate) or that you should seek medical attention, please do not attend the hearing. We will try to reschedule your hearing as quickly as possible, including by exploring whether the symptomatic person can participate in the hearing by teleconference.
- Please contact the WSIAT before the hearing if you require the attendance of an observer or a support person, or if you require other accommodation. More information about accommodation can be found on the WSIAT's [Accessibility](#) webpage.
- Send all documents to the Tribunal well before the hearing, if you would like the Vice-Chair or Panel to have them for the hearing.
- Bring any materials or supplies you need to your hearing.
- If you prefer to wear a face mask (medical mask), they will be available or you may wear your own.

Hearing at WSIAT Office – When You Arrive at the WSIAT's Offices

- Do not enter the building until your scheduled arrival time.
- When moving through the building, follow any safety directions. The key safety message is to keep a distance of at least 2 metres or 6 feet from other people.
- The Tribunal encourages frequent hand washing.

- Proceed to the 7th floor to check-in for your hearing.
- Only visit those areas of the WSIAT's offices as necessary.
- After checking in for your hearing, you will be directed to your hearing room. A security guard will be stationed on floors where hearings are taking place.
- Sanitizing cleaning products are available in the hearing room to clean your personal area.
- Fully accessible public washrooms are available on the 7th floor.
- You will be directed to the area you may use during breaks.
- Witnesses should remain at the 7th floor reception area until they are directed to the hearing room.
- Leave the building after your hearing has ended, and follow any exit instructions given to you by the Vice-Chair or Panel.

Hearing at a Regional Hearing Location - When You Arrive at the Hotel for a Regional Hearing

- Do not enter the hearing room (the hotel board room) until the Vice-Chair or Panel asks you to do so. Follow any instructions they provide regarding when and how to enter the hearing room.
- The Tribunal encourages frequent hand washing.
- Sanitizing products will be available in the hearing room.
- Follow any instructions of the Vice-Chair or Panel on the procedure for the in-person hearing.
- Leave the hearing room after your hearing has ended, and follow any exit instructions given to you by the Vice-Chair or Panel.
- If you start to feel any COVID-19 symptoms while at the hotel or during the hearing, please leave the building immediately and get help using the COVID-19 Self-Assessment, Telehealth, your health care provider, or your local public health unit. 911 will be called in the event of an emergency.



Photos of the Ian J. Strachan Conference Centre.
Please be seated at your assigned desk, as labelled.