



Practice Direction #1

How to Start an Appeal at the WSIAT

1.0 This Practice Direction explains how to start an appeal of a final decision of the Workplace Safety and Insurance Board (WSIB).

2.0 Notice of Appeal

2.1 If you, the appellant, want to appeal a final decision of the WSIB, you must provide notice of your appeal in writing to the Workplace Safety and Insurance Appeals Tribunal (WSIAT). You will need to explain why the decision is incorrect or why it should be changed.

2.2 You must file a Notice of Appeal (NOA) Form with the WSIAT. There are different NOA forms for workers and employers.

2.3 You must provide a copy of the WSIB's final decision with the NOA Form. This is usually from an Appeals Resolution Officer.

2.4 If you are a worker, you must sign the NOA Form for Workers.

2.5 If you are an employer, the contact person for the employer must sign the NOA for Employers Form. This is to confirm their understanding of confidentiality (section 9 of the NOA for Employers Form).

2.6 If you do not complete the NOA Form within 6 months, the WSIAT may close your appeal. You can start another appeal for the same decision(s) but time limits will apply. To proceed with the appeal, you will first need to get a time limit extension granted.

3.0 Time Limit to File a Notice of Appeal

3.1 The WSIAT must receive an appeal within 6 months of the date of the WSIB's final decision.

3.2 If the appeal is received after 6 months, it is considered late. If this is the case, you will need to apply for a time extension. To proceed with the appeal, you will first need to get a time limit extension granted.

4.0 What Happens After I File the Notice of Appeal (NOA) Form?

4.1 When the WSIAT receives your completed NOA Form, WSIAT staff will review it. Staff may contact you or your representative to discuss your appeal.

4.2 WSIAT staff will write to you to confirm if your appeal was received on time. If so, WSIAT staff will request the claim file(s) and the applicable policy from the Workplace Safety and Insurance Board (WSIB).

5.0 Respondents

5.1 The WSIAT will determine who has an interest in your appeal. WSIAT staff will send them

- your NOA Form
- a copy of the final WSIB decision
- a Response Form

The WSIAT will invite them to participate in the appeal as a respondent.

5.2 If an employer or worker responds and wants to participate, they become a participating respondent to the appeal. They will receive all case materials and take part in the hearing. If they want to appeal any issues in the same decision, they should put it on their Response Form.

5.3 If an employer responds and does not want to participate, WSIAT staff will confirm this in writing. WSIAT staff will not send the employer any additional information except the final WSIAT decision.

5.4 If an employer does not respond, the WSIAT assumes the employer is not participating in the appeal. WSIAT staff will confirm this in writing. WSIAT staff will not send the employer any additional information except the final WSIAT decision.

5.5 If a worker does not want to participate, WSIAT staff may contact the worker to discuss their participation. The WSIAT may decide that it is necessary for the

worker to participate, for example, to testify. WSIAT staff will also discuss the release of case materials to the employer.

5.6 If a worker does not respond, WSIAT staff will follow up by phone and with a letter.

6.0 Case Materials

6.1 The WSIAT receives the claim file(s) and applicable policy from the Workplace Safety and Insurance Board (WSIB). Once this happens, WSIAT staff will prepare the Case Record for the appeal. A Case Record contains the WSIB claim file on appeal and any related WSIB claim files.

6.2 WSIAT staff will send the Case Record to the worker and their representative. WSIAT staff will request the worker's consent to release the materials to the employer, if they are participating.

6.3 Once all participating parties have received the Case Record, WSIAT staff will review all the appeal documents. WSIAT staff will determine if the appeal is ready for a hearing.

7.0 References and Resources

7.1 Legislative Authority

Workplace Safety and Insurance Act, 1997, sections 125(2) (time limit to file notice of appeal with the WSIAT) and 131 (the WSIAT can determine its own practice and procedure)

7.2 Related Practice Directions

#3 – Consent for the WSIAT to Release a Worker's Information

#15 – Time Extension Applications

#26 – Closing Appeals by the WSIAT

#28 – Representatives

#33 – Role of the Vice-Chair Registrar

#35 – Calculation of Time

#36 – Delivery and Filing Documents