



## Practice Direction #19

### Hearing Assignments

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**1.0 This Practice Direction** explains how Vice-Chairs or Panels are assigned to

- appeals
- applications
- other matters under the *Workplace Safety and Insurance Act, 1997*

### **2.0 Hearing of Appeals**

2.1 The Chair has the authority to hear and decide appeals, applications and other matters or assign a Vice-Chair. Most appeals, applications and other matters decided by the WSIAT are assigned to a Vice-Chair.

2.2 The Chair may appoint a panel of 3 or 5 members to hear and decide an appeal, application or other matter.

2.3 A 3-member Panel will be made up of

- the Chair or a Vice-Chair
- a member representing workers
- a member representing employers

2.4 A 5-member Panel will be made up of

- the Chair or a Vice-Chair
- 2 additional Vice-Chairs
- a member representing workers
- a member representing employers

2.5 The decision is determined by the majority of either a 3- or 5-member panel. The decision of the Panel is the decision of the WSIAT.

### **3.0 Panel Assignments**

3.1 The Chair has the sole discretion to assign a Vice-Chair, or 3 or 5-member Panel to any case at the WSIAT.

3.2 Most appeals, applications and other matters are heard and decided by a single Vice-Chair.

3.3 To decide if a 3-member Panel should be assigned, the Chair may consider if the case has

- novel medical or scientific issues that have important implications for the workplace safety and insurance system
- novel legal issues that have important implications for the workplace safety and insurance system
- significant issues of credibility
- new hearing techniques and procedures
- significant financial consequences for the Insurance Fund

The Chair may also consider other factors when assigning a 3-member Panel. This could include scheduling matters, if parties are self-represented, or training purposes.

3.4 In exceptional circumstances, the Chair may assign a 5-member Panel to hear and decide an appeal, application or other matter. To decide if a 5-member Panel should be assigned, the Chair may consider if the case

- has leading, significant or novel issues that may have a significant impact on the workplace safety and insurance system
- raises broader societal issues beyond the workplace safety and insurance system
- turns on ongoing conflicting case law from the WSIAT – needing a leading case approach to resolve the inconsistency

## 4.0 Requests for a 3-Member Panel Assignment

- 4.1 Parties can request that a 3-member Panel be assigned to hear and decide a matter. They do this by submitting a written request as soon as possible. It must be sent to the WSIAT at least **8 weeks** before the hearing date. The request must have reasons. It should consider the factors set out in section 3.3. Late requests will not be considered.
- 4.2 The party making the request must send the request to the Manager, Scheduling Administration. They must send a copy of the request to all parties participating in the hearing. Where possible, the party making the request should consult with the other parties. They should confirm if the other parties
- agree
  - oppose
  - take no position
- 4.3 The Chair will review the request and make a decision. The Manager, Scheduling Administration will share the decision with the parties in writing.

## 5.0 Requests for a 5-Member Panel Assignment

- 5.1 Parties can request that a 5-member Panel be assigned to hear and decide a matter. They do this by submitting a written request as soon as possible. It must be sent to the WSIAT at least **12 weeks** before the hearing date. The request must have reasons. It should address the factors set out in section 3.4. Late requests will not be considered.
- 5.2 The party must send the request to the Manager, Scheduling Administration. They must send a copy of the request to all parties participating in the hearing. Where possible, the party making the request should consult with the other parties. They should confirm if the other parties
- agree
  - oppose
  - take no position

- 5.3 The Chair will review the request and make a decision. The Manager, Scheduling Administration will share the decision with the parties in writing.
- 5.4 If a 5-member Panel has been assigned, a pre-hearing conference will be held to discuss the hearing.
- 5.5 It usually takes longer to process a matter for a 5-member Panel. The WSIAT will make every effort to ensure efficient processing. If there are any concerns about the assignment of a 5-member Panel, parties must write to the Chair as soon as possible.

## **6.0 References and Resources**

### **6.1 Legislative Authority**

*Workplace Safety and Insurance Act, 1997*, sections 131 (the WSIAT can determine its own practice and procedure) and 174 (who may hear and decide appeals at the WSIAT)

### **6.2 Related Practice Directions**

#14 – Pre-Hearing Conferences

#33 – Role of the Vice-Chair Registrar at the WSIAT

#36 – Delivery and Filing Documents