



Practice Direction #23

Adjournments and Withdrawals

1.0 This Practice Direction

- explains the difference between an adjournment and a withdrawal
- explains the WSIAT's strict adjournment policy and the reasons for it
- outlines the process for adjournment or withdrawal requests
- explains what to do after an adjournment or withdrawal

2.0 Adjournment or Withdrawal?

- 2.1 An “adjournment” means that the hearing will not be on the scheduled day. It will be on another day.
- 2.2 A “withdrawal” means the appellant does not want to continue with their appeal. The WSIAT will close the appeal without making a decision about the merits of the case.

3.0 Strict Adjournment Policy

- 3.1 The WSIAT handles thousands of appeals each year. The WSIAT has limited adjudicator and staff resources. The WSIAT require parties to follow pre-hearing procedures so it can use hearing time efficiently.
- 3.2 The WSIAT gives self-represented parties before the hearing
- information about representatives
 - time to get a representative if they want one
 - navigation services if they are interested

This is so parties can make an informed decision about getting a representative before the hearing. The WSIAT will likely not grant a request for an adjournment to get representation without a reason.

- 3.3 The WSIAT schedules hearings in consultation with the parties.
- 3.4 The WSIAT confirms the hearing details in writing before the hearing.
- 3.5 The WSIAT expects parties to prepare for the hearing and to be ready to attend when the date is set. Adjournments waste everyone's resources. They cause significant delays to the parties and to other parties who are waiting for hearing dates. An appeal can take months to reschedule. Delays can also cause other prejudice to the parties and the hearing process. For example, witnesses may move.
- 3.6 This is why the WSIAT focuses on pre-hearing preparation and has a strict adjournment policy.

4.0 Adjournments before a Hearing

- 4.1 Parties should request an adjournment as soon as possible. This is so resources are not wasted. This is also so significant prejudice is less likely to happen.
- 4.2 The WSIAT Manager, Scheduling Administration generally decides a pre-hearing request for an adjournment. The party must make the request in writing to the Manager, Scheduling Administration as soon as possible.

The request must

- give the reason for the request
- be sent to the other party or representative if they are participating

- 4.3 Representatives must confirm in writing that the party they represent agrees to the adjournment. This is if the representative is making the request.

The request must have this information. If not, the Manager, Scheduling Administration may not make a decision until all the information is provided in writing.

- 4.4 If the Manager, Scheduling Administration cannot set a new hearing date because the appellant is not ready to proceed, the WSIAT will handle the case using Practice Direction #24 – Inactive Appeals.

- 4.5 The respondent must contact the appellant to request their agreement if they want an adjournment. If the appellant agrees, the respondent must advise the Manager, Scheduling Administration in writing. The Manager, Scheduling Administration will consider whether the appellant agrees or disagrees with the adjournment request.
- 4.6 If the Manager, Scheduling Administration grants the adjournment, the WSIAT will process the appeal when the party is ready to continue.
- 4.7 The WSIAT does not schedule a hearing sooner if it has previously been adjourned at the appellant's request.

5.0 Adjournments after the Hearing Begins

- 5.1 The parties must attend the hearing at the scheduled time if the Manager, Scheduling Administration does not approve the adjournment. The parties must be ready to proceed with the hearing if the adjournment request is refused. The party can ask the Vice-Chair or Panel for an adjournment at the hearing.
- 5.2 In some appeals, a Vice-Chair or Panel is seized with a matter. In this case, a request for an adjournment can be referred to the seized Vice-Chair or Panel. For example, a request to adjourn a reconvened hearing will go to the Vice-Chair or Panel.
- 5.3 Parties and representatives are given notice of the hearing. Parties and representatives are expected to attend a hearing at the scheduled time. They must be prepared to proceed with the hearing. The Vice-Chair or Panel will wait **30 minutes** for late parties or representatives to arrive or to contact the WSIAT. If the party or representative still has not appeared, the Vice-Chair or Panel may proceed or adjourn the hearing. Or, they will make another order.
- 5.4 The Vice-Chair or Panel will consider if an adjournment is necessary for a fair hearing. The Vice-Chair or Panel will refuse an adjournment request if the matter can be addressed by
- a short break
 - post-hearing submissions
 - changing the order of proceedings
 - other directions

- 5.5 The Vice-Chair or Panel may consider other issues about the adjournment request like
- if the party or representative that is requesting the adjournment has added to the need for the adjournment request or previous adjournments
 - if the party or representative made the request as early as possible
 - if the party or representative made reasonable efforts to avoid the need for an adjournment
 - if there is any prejudice that could come from granting or refusing the adjournment.
- 5.6 A Vice-Chair or Panel can impose conditions on adjournments. This could include a condition that no other adjournment will be allowed.
- 5.7 Representatives and parties must identify any new issues related to the appeal. They must complete outstanding issues at the Workplace Safety and Insurance Board (WSIB). This must happen well before the scheduled hearing date at the WSIAT. This is to avoid an adjournment. A Vice-Chair or Panel can grant an adjournment if there is an outstanding issue at the WSIB. The hearing will be rescheduled when the WSIB issues its decision. It is the party's responsibility to complete the outstanding issues. Parties must keep the WSIAT informed of the status of the proceedings at the WSIB. The party should contact the WSIAT when they receive the WSIB decision.
- 5.8 The Vice-Chair or Panel will usually hear the testimony of any available witnesses before adjourning a hearing. This is to preserve the evidence.
- 5.9 For adjournments in Right to Sue hearings, review Practice Direction #17 – Right to Sue Applications.
- 5.10 Cases may be adjourned without setting a new date if the appellant is not ready to proceed.
- 6.0 Withdrawals**
- 6.1 A party can withdraw an appeal at any time before the hearing date. Parties that want to withdraw need to give the WSIAT as much notice as possible in writing. If more than one party is appealing, a withdrawal of one party will not affect the appeal of the other party.

- 6.2 Once a hearing has started, a request to withdraw will be addressed by the Vice-Chair or Panel.
- 6.3 When an appeal is withdrawn, the WSIAT closes the file and returns it to the Workplace Safety and Insurance Board (WSIB). If parties want to appeal later, they must file a new Notice of Appeal Form. The time limit to appeal will generally have expired. If this is the case, the party can only appeal again if the WSIAT agrees that a time extension should be granted.

7.0 References and Resources

7.1 Legislative Authority

Workplace Safety and Insurance Act, 1997, section 131 (the WSIAT can determine its own practice and procedure)

7.2 Related Practice Directions

#1 – How to Start an Appeal at the WSIAT

#15 – Time Extension Applications

#17 – Right to Sue Applications

#24 – Inactive Appeals

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

#36 – Delivery and Filing Documents