



Practice Direction #7

Alternative Dispute Resolution (ADR) – 1-Party Appeals

1.0 This Practice Direction explains

- the purpose of Alternative Dispute Resolution (ADR)
- which cases are suitable for ADR
- the ADR process
- confidentiality in the ADR process
- cooperation in the ADR process

2.0 Purpose of ADR

- 2.1 The goal of ADR is to find ways to resolve single-party appeals without holding a full oral hearing or a hearing in writing.
- 2.2 ADR for single-party appeals is not mediation. The WSIAT has a separate practice direction on mediation for 2-party appeals (review Practice Direction #6 – Mediation – 2-Party Appeals).

3.0 Cases Suitable for ADR

- 3.1 A party must consent to participate in ADR for 1-party appeals.
- 3.2 The WSIAT must also agree that the issue(s) on appeal are suitable for ADR.
- 3.3 Appeals that are not suitable for ADR include
- appeals that are complex or novel
 - appeals where credibility is an issue

4.0 Steps in the ADR Process

4.1 The usual steps in the ADR process are

1. Before a hearing is scheduled, the appellant asks that the appeal be resolved through ADR and the WSIAT agrees. Or, the WSIAT identifies that ADR may be suitable and the party agrees to participate. (If either the party or the WSIAT do not agree to ADR, the case will go to a hearing.)
2. The party signs a consent form agreeing to participate in ADR. The consent form sets out what information will and will not be kept confidential.
3. WSIAT staff who conduct ADR sessions are called Dispute Resolution Officers (DROs). A DRO will contact the party to discuss if the appeal can be resolved without an oral hearing or a hearing in writing. If the party does not agree to a proposed resolution, the case will go to a hearing. If the party agrees to a proposed resolution, the party will sign a Proposed Resolution (PR) Agreement. This agreement will set out the terms of the resolution. The PR is then referred to a Vice-Chair for approval.
4. If the Vice-Chair agrees with the PR, they will release a decision with the terms of the PR. A PR must address all the issues in the appeal and be consistent with the applicable law and policy. If a Vice-Chair is not satisfied with the PR, the case will be referred to a hearing in front of a different Vice-Chair or Panel. The PR will not be included in the case materials.

5.0 Confidentiality and Alternative Dispute Resolution (ADR)

5.1 The ADR process is confidential. This means that communications

- will only be used for the purpose of resolving an appeal
- are not part of the record
- will not be shared without the consent of the party
- will not be used in any other proceeding

Internal communication about a Proposed Resolution (PR) is confidential and will not be placed on the record.

- 5.2 There are some exceptions to the confidentiality rule. For example, documentary evidence. This could include medical reports and records, employment records and witness statements.

Exceptions will be added to the appeal record. When the appeal is closed, they will be added to the Workplace Safety and Insurance Board (WSIB) claim file.

6.0 Cooperation in ADR

- 6.1 Parties are expected to cooperate fully with the Dispute Resolution Officer (DRO). Full cooperation means

- providing additional or clarifying information when requested
- returning phone calls and answering letters promptly
- participating willingly and openly in meetings and conference calls
- assisting in drafting and reviewing PRs

- 6.2 If a party does not cooperate, the WSIAT may end the ADR process. WSIAT staff will then refer the appeal for a hearing.

7.0 References and Resources

7.1 Legislative Authority

Workplace Safety and Insurance Act, 1997, sections 130 (mediation at 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

#19 – Hearing Assignments

#22 – Downside Risk

#23 – Adjournments and Withdrawals

#24 – Inactive Appeals

#26 – Closing Appeals by the WSIAT

#31 – Powers of Practice and Procedure