

Who May Attend a Hearing

1.0 This Practice Direction:

- identifies who must attend a hearing
- describes who may attend a hearing.

2.0 Parties to the Appeal

2.1 The Tribunal expects the appellant and his or her representative, if there is one, to attend the hearing.

2.2 Some cases may involve more than one respondent. If a respondent has advised the Tribunal that it will participate in the appeal, the Tribunal expects the respondent and his or her representative, if there is one, to attend the hearing.

2.3 For greater certainty, where the issue in an employer appeal involves a worker's entitlement to benefits, the Tribunal will notify the worker of the appeal in the usual way and invite the worker to participate in the proceeding. However, employers and/or their representatives must consider the need to obtain the evidence of the worker well in advance of the hearing, so that they may make any necessary arrangements to ensure the attendance of the worker at the hearing.

3.0 Standing

3.1 When a person or company is named in the Board's final decision, the Tribunal will generally grant standing to s/he or it as a party of record.

3.2 Where a person or company has a direct or significant interest, usually monetary, in the outcome of an appeal, the Tribunal may, on its own, or at the request of a party, grant standing for the purposes of a proceeding.

3.3 Where the Tribunal believes an individual or organization has an interest in the proceeding, it will give notice of the proceeding to that individual or organization.

3.4 For issues relating to the Human Rights Code and the Charter and notifying the Attorney General, Ontario, or Attorney General, Canada see *Practice Direction: Procedure When Raising a Human Rights or Charter Question*.

4.0 Observers

4.1 Family and friends may attend the hearing in support of the worker, and Tribunal staff and adjudicators may attend hearings for training purposes.

4.2 Trainee advocates or others may attend hearings for training purposes. Anyone who wishes to observe a hearing must make the request to the Scheduling Department at least one week in advance of the hearing date.

4.3 When considering a request for an observer, a Vice-Chair or Panel will consider the submissions of the parties. The issues in a hearing may be sensitive due to intimate personal or financial information. Therefore, the Tribunal exercises its discretion in reviewing requests to observe a WSIAT hearing. The Tribunal may refuse a request to observe a hearing.

4.4 Observers must be identified at the outset of the hearing. Observers are not permitted to participate in the hearing. Any observer who disrupts the hearing may, after appropriate warning, be required to leave the hearing room.

5.0 Witnesses

5.1 Generally, a worker may testify, attend throughout the hearing and instruct counsel. Generally, one person from the employer may testify, attend throughout the hearing and instruct counsel.

5.2 Unless otherwise directed, witnesses will be excluded from the hearing room before giving their evidence.

5.3 Unless otherwise ordered there must be no communication with an excluded witness about evidence given at the hearing during their absence until the witness testifies.

6.0 Expert Witnesses

6.1 Oral testimony from an expert witness is extremely rare before the Tribunal. See *Practice Direction: Expert Evidence*.

7.0 Workplace Safety and Insurance Board

7.1 As decision-maker, the WSIB is not a party to Tribunal proceedings. In exceptional circumstances, the Tribunal may invite submissions from the WSIB where it would be helpful.

8.0 Intervenor

- 8.1** In rare circumstances, the Tribunal may exercise its discretion to invite intervenors to limited participation in a hearing process. The Vice-Chair or Panel will decide the issue of intervenor access to materials after considering the submissions of or an agreement by the parties.

Effective date: July 1, 2014
Workplace Safety and Insurance Appeals Tribunal