

WSIAT ANNUAL REPORT 2020

AGILITY
RESILIENCE
COMMITMENT



Workplace Safety and Insurance
Appeals Tribunal

Tribunal d'appel de la sécurité professionnelle
et de l'assurance contre les accidents du travail

WSIAT 2020

ANNUAL REPORT

Workplace Safety and Insurance Appeals Tribunal

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INTRODUCTION

The Workplace Safety and Insurance Appeals Tribunal (the WSIAT or Tribunal) is a specialized, independent adjudicative agency within the Ontario administrative justice system which has exclusive jurisdiction to hear appeals from final decisions of the Workplace Safety and Insurance Board (the WSIB or Board). The WSIAT also has exclusive and original jurisdiction to determine whether a right of action has been taken away and to decide other matters assigned to it under the *Workplace Safety and Insurance Act, 1997* (WSIA). The Workers' Compensation Appeals Tribunal was established in 1985, and was continued as the Workplace Safety and Insurance Appeals Tribunal pursuant to section 173 of the WSIA.

This volume contains the WSIAT's annual report to the Minister of Labour, Training and Skills Development and to the WSIAT's various constituencies, together with a report of the Tribunal Chair. It is primarily a report on the WSIAT's operations for fiscal year 2020 and comments on some matters which may be of special interest or concern to the Minister or the WSIAT's constituencies.

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CHAIR'S REPORT



MESSAGE FROM THE CHAIR

2020 in Review

The year 2020 will be etched in our memories for many years to come. In March 2020, a global pandemic upended our ways of living, socializing, and working.

Throughout the COVID-19 pandemic, the WSIAT's operations have been guided by the following values and commitments:

- Protecting the health and safety of the WSIAT's employees, Order in Council (OIC) appointees, and stakeholders;
- Ensuring access to justice; and
- Delivering excellence in adjudication, which includes conducting fair hearings in accordance with the principles of natural justice and issuing well-reasoned decisions in a timely manner.

In last year's Annual Report, I noted that the WSIAT would focus on "agility, a quality which will allow the Tribunal to adapt quickly to change."

The WSIAT's ability to adapt to change was certainly tested in unexpected ways in 2020. OICs and staff members in every department of the WSIAT worked creatively and diligently to ensure that we could continue to provide timely and responsive services to the stakeholders who depend on us. From the pre-hearing process through to the release of decisions, every aspect of the WSIAT's work was affected by the COVID-19 pandemic. The WSIAT's staff and OICs proved themselves to be up to the challenge in order to continue to serve the public.

The WSIAT's noteworthy accomplishments during the COVID-19 pandemic include:

- Equipping 99.5% of the WSIAT's workforce to work remotely by March 30, 2020;
- Converting scheduled in-person hearings to remote teleconference hearings or written appeals;
- Offering remote videoconference hearings as of June 15, 2020;
- Launching the e-filing feature on our website on September 8, 2020;

- Maintaining timely and transparent communication with our stakeholders through our website and virtual stakeholder events on April 21, 2020, July 24, 2020, September 15, 2020, October 29, 2020, November 18, 2020 and December 4, 2020;
- Collecting feedback from representatives and OICs to continually improve our remote hearing processes;
- Establishing a dedicated page on our website for Notices and Updates on the WSIAT's response to the COVID-19 pandemic;
- Creating and revising several new guidelines and best practices documents to provide current information on hearing processes;
- Working with the Public Services Health and Safety Association to prepare our Toronto office for the gradual and safe resumption of in-person hearings in August 2020;
- Reducing the median time to first-offered hearing from 9.7 months in 2019 to 7.8 months in 2020, and reducing the total time to complete matters from 18.2 months in 2019 to 15.4 months in 2020; and
- Releasing decisions in a timely manner: in 2020, 90% of WSIAT decisions were released within 120 days, compared to 87% in 2019.

In line with public health recommendations during the COVID-19 pandemic, the WSIAT has focused on conducting hearings through alternative hearing methods, namely, videoconference, teleconference, and written process. (Alternative dispute resolution is also available in appropriate cases.) The WSIAT's use of alternative hearing methods allows timely access to justice while also supporting the province-wide effort to stop the spread of COVID-19. Amid the constantly evolving COVID-19 pandemic, the WSIAT has never lost sight of its primary commitment to adjudicative excellence. For more information, please see the *WSIAT COVID-19 Interim Practice Guideline: Objections to Alternative Hearing Methods – Revised [September 15, 2020]*.

The year 2020 was noteworthy for the WSIAT in other ways as well. We celebrate this edition as the WSIAT's 35th Annual Report. We congratulated the Tribunal's first Chair, Ron Ellis, on his well-deserved recognition as a recipient of the Law Society Medal. We also congratulated the WSIAT's former Chair, David N. Corbett, on his appointment as the Deputy Attorney General.

Sadly, Ian J. Strachan, the WSIAT's longest-serving Chair, passed away in July 2020. Ian is missed by everyone at the WSIAT who worked with him and by the broader administrative justice community. In October 2019, the WSIAT unveiled its modern

new training facility as the Ian J. Strachan Conference Centre. In August 2020, the Ian J. Strachan Conference Centre was equipped for the safe resumption of in-person hearings. The Ian J. Strachan Conference Centre is a lasting tribute to Ian's legacy of excellence and collegiality at the WSIAT.

What lies ahead? Facing the future with Agility, Resilience, and Commitment

Our theme for the year is **Agility, Resilience and Commitment (ARC)**. Agility is required to respond not only to the COVID-19 pandemic, but also a rapidly changing digital world. Resilience has been and will continue to be required to not only endure, but also thrive in the face of change. The WSIAT's commitment is to continually renew and demonstrate our integrity in meeting the high expectations of our stakeholders.

The acronym "ARC" also signifies both the hope and diversity represented by a rainbow. After weathering the unpredictable storm created by the global pandemic, the WSIAT is hopeful for the year ahead. The WSIAT has initiated an Equity, Diversity and Inclusion Program, which will ensure that these values guide our services to the public and our overall operations as an employer.

On November 6, 2020, the Workplace Safety and Insurance Board (WSIB) Operational Review Report, authored by Linda Regner Dykeman and Sean Speer, was released. That report set out 25 recommendations, some of which have a direct impact on the WSIAT's operations. While the WSIAT is an independent adjudicative agency, we are also partners in a larger system that includes the WSIB, the Ministry of Labour, Training and Skills Development, the Office of the Worker Adviser, and the Office of the Employer Adviser. The WSIAT will continue to seek co-operation and coordination with our system partners.

The WSIB Operational Review Report noted that the public's expectations about how public institutions function and perform are rapidly increasing: "People want public services to be responsive, timely, and individualized." The WSIAT is fully committed to providing services in accordance with these values.

In response to stakeholder expectations, the WSIAT will continue to innovate and modernize. The launch of the e-filing application on our website was an important step in modernizing the way we *receive* confidential case-related information from parties. We are currently working on a secure electronic means for the WSIAT to *send* confidential case-related information out to parties. Since case materials are confidential and often contain sensitive personal health information, any electronic means of communication must meet the WSIAT's unique privacy obligations.

In 2020, we unveiled the location of the future Ron Ellis Hearing Centre, and, in 2021, we will move ahead with plans to equip the space as a fully digital, paperless hearing centre which will also accommodate five-member panels hearing leading cases. In addition, the Ron Ellis Hearing Centre will allow for hybrid hearings, whereby some parties may participate in person, while others may participate via videoconference.

While the WSIAT is pursuing modern, digital means of conducting hearings, we are also preparing for the possibility of a gradual increase in the number of in-person hearings in 2021, both in Toronto and our regional centres throughout Ontario. We will continue to keep our stakeholders informed through our website and information sessions.

The WSIAT's Access to Justice Committee will continue its important work to ensure that all parties are able to meaningfully participate in proceedings before the WSIAT, and the WSIAT will continually work to remove barriers to participation, such as complexity, delay or cost.

I would like to thank the Honourable Monte McNaughton, Minister of Labour, Training, and Skills Development, for his support of the WSIAT's commitment to innovation and adjudicative excellence.

Many thanks to all of our stakeholders for their patience and constructive feedback during this extraordinary year. We count on their continuing co-operation in the year ahead.

Finally, I would like to thank the WSIAT's staff and OIC appointees for their hard work, dedication, and commitment to ensuring that our stakeholders receive a high level of service and adjudication.



Rosemarie McCutcheon
Chair, Workplace Safety and Insurance Appeals Tribunal

WSIAT 2020 Highlights

AT A GLANCE



1,120
E-file
Submissions



939
Written
Hearings



186
In-Person
Hearings



406
Teleconference
Hearings



254
Resolved
Cases



214
Videoconference
Hearings



1,864
Final and Interim
Decisions Released

HIGHLIGHTS OF THE 2020 CASES

This section reviews some of the many legal, factual and medical issues which the WSIAT considered in decisions released or summarized in 2020.

The WSIAT decides cases under four acts. The *Workplace Safety and Insurance Act, 1997* (WSIA) came into force on January 1, 1998. It establishes a system of workplace insurance for accidents occurring after 1997, and continues the pre-1985, pre-1989 and pre-1997 *Workers' Compensation Acts* for prior injuries. The WSIA and the pre-1997 acts have been amended a number of times since 1998. In addition, the WSIAT considers and applies policies adopted by the Workplace Safety and Insurance Board (WSIB). The substantive provisions and terminology contained in WSIB policies vary over time. This section uses the policy terms considered in the WSIAT decisions discussed.

Initial Entitlement and Statutory Presumptions

Section 13(2) of the WSIA includes a rebuttable presumption that if a worker suffers an accident while in the course of employment it is presumed to have arisen out of employment unless the contrary is shown. In **Decision No. 1057/20, 2020 ONWSIAT 1654**, the Vice-Chair applied the presumption and found that the worker had entitlement for a fall at work as the presumption that it arose out of employment was not rebutted. The Vice-Chair noted that although the worker indicated she was feeling unwell at the time of the fall and may have fainted, there was no medical opinion linking her feeling of being unwell with the fainting episode and no evidence of any significant non-compensable condition that may explain a fainting episode. Even if the worker fainted due to feeling unwell, the fact that she followed the employer's instructions to come into work with the employer's knowledge that she felt unwell and had requested time off work would be further evidence supporting entitlement.

LOE Entitlement Issues

The WSIA provides loss of earnings (LOE) benefits for workplace injuries. LOE benefits are reviewable on a material change in circumstance or

annually at the WSIB's discretion, for 72 months following the accident. When the WSIA was initially enacted, LOE benefits generally could not be reviewed after 72 months; however, subsequent amendments to section 44 in 2002 and 2007 allow for review in a number of circumstances.

WSIAT decisions continue to interpret the amendments made to section 44 to determine whether a worker's LOE benefits may be reviewed after 72 months. **Decision No. 2762/18, 2020 ONWSIAT 4**, addressed the potential starting point for a post-72 month LOE review under section 44(2.1)(d) due to a deterioration resulting in a permanent impairment award. The Chair noted that the statute and WSIB policy identify a clear temporal end point for the review, namely, 24 months after the date on which the WSIB determines the degree of permanent impairment, but the statute is silent on the temporal starting point for the LOE adjustment after a non-economic loss has been determined. The Chair confirmed that WSIAT case law supports that the post-72 month LOE benefit may be adjusted from the MMR date of the newly rated permanent condition. *Decision No. 2762/18* also confirmed that the determination of LOE benefits at the 72-month final review is meant to be a prospective exercise. The Chair noted that the WSIAT recognizes that the evidence available at the time of the review is most relevant to the determination, although subsequent evidence that sheds light on the facts at the time of the 72-month review may also be considered.

In **Decision No. 1081/20, 2020 ONWSIAT 1758**, the worker appealed the WSIB's decision to terminate his LOE benefits after the 72-month final LOE review. As LOE benefits can only be reviewed after the 72-month final review in certain circumstances, the Panel first examined whether one of the exceptions allowing for a LOE review after the 72-month final LOE review applied. The Panel found there was no basis under the exceptions listed in section 44(2.1) warranting a LOE review at the time LOE benefits were terminated. The WSIB had decided to discontinue the worker's LOE benefits because entitlement to LOE prior to the 72-month review was due to a recurrence and a review of current findings in 2012 revealed that the worker's impairment was no worse than at the time of the permanent impairment assessment. The Panel noted that the provisions allowing review for significant deterioration due to a temporary or permanent impairment (sections 44(2.1)(c), (d), (e) or (f)) all indicate that the significant deterioration must occur after the 72-month period expires. In this case, however, the worker's recurrence and significant deterioration occurred prior to the 72-month final LOE review. Furthermore, the provisions relating to co-operating in early and safe return to work and health care (sections 44(2.1)(g) and 44(2.4.4)) only permit a review of LOE benefits up to 24 months after the date of the expiry of the 72-month period, and LOE benefits were terminated outside of that 24-month period. Furthermore, there was no basis for section 44(2.1)(a) and (b) to apply. The Panel found that as there was no statutory authority to change the LOE award, and the worker remained entitled to full LOE benefits as of the date LOE benefits were terminated after the 72-month final LOE review.

There are statutory provisions setting out a worker's obligations to co-operate in health care measures and providing that benefits may be reduced or suspended if a worker fails to co-operate. **Decision No. 772/20, 2020 ONWSIAT 1489**, examined the authority to reduce payments to a worker for non-co-operation in health care measures, which is located in sections 34(2) and 43(7) of the WSIA. The worker was not in receipt of LOE benefits at the time the non-cooperation occurred, but later would have been entitled to LOE benefits but for the non-cooperation. The Vice-Chair found there is nothing in either of these two sections indicating that the authority to reduce benefits during a period of non-co-operation can only be exercised by the WSIB if benefit payments are already in progress. Section 34(2) clearly states that the obligation to co-operate in health care measures exists when a worker "claims or is receiving benefits" and section 43(7) states that the reduction or suspension of benefits may take place "during any period when the worker is not co-operating" without further limitation.

Transitional Rules for Mental Stress Appeals

As noted in prior Annual Reports, as of January 1, 2018, sections 13(4) and (5) of the WSIA, which limited mental stress to "an acute reaction to a sudden and unexpected traumatic event," were repealed and replaced with new provisions regarding mental stress. Transitional provisions in section 13.1(8) provide that claims "pending" at the WSIAT on January 1, 2018 must be referred back to the WSIB to be decided according to the new provisions. **Decision No. 1098/20I, 2020 ONWSIAT 1783**, dealt with a preliminary matter following a referral back to the WSIB under the transitional provisions. The worker submitted that both final WSIB decisions (the one prior to the referral back to the WSIB, and the one following the referral) remained on appeal. The Vice-Chair agreed with Tribunal Counsel Office (TCO) submissions which indicated the wording and purpose of the legislative amendments to the mental stress provisions and the related transitional provisions suggest that the WSIB's decision following the referral was intended to replace the prior decision as the WSIB's final decision on entitlement for mental stress. The Vice-Chair concluded that this decision replaces and revokes the prior WSIB decision which is, in turn, of no force and effect. The Vice-Chair also concluded that the legislative provisions and policy applicable to this appeal are those which took effect on January 1, 2018. While statutory provisions and WSIB policy generally do not apply retroactively, this can be altered by specific statutory wording. The transitional provisions in sections 13.1(6) and (8) expressly give retroactive effect to the amended wording of section 13(4).

Decision No. 592/20, 2020 ONWSIAT 1170, and **Decision No. 3658/17I, 2020 ONWSIAT 1835**, also confirmed that, as a result of the transitional provisions in the WSIA, the WSIAT no longer had jurisdiction over the final WSIB decision that was referred back to the WSIB, but had jurisdiction over the new final WSIB decision following the referral.

Earnings Basis for LOE Benefits

Several recent decisions considered how a volunteer firefighter's pre-accident earnings are calculated due to section 78(3) of the WSIA and the applicable WSIB policies. **Decision No. 216/19, 2019 ONWSIAT 2677**, confirmed that the policy on volunteer forces provides that it is the amount recorded by the deemed employer (the municipality employer hiring the volunteer firefighter), not the volunteer worker's actual earnings from regular employment, which is used to determine the volunteer's net average earnings. The Vice-Chair noted that the policy was silent on the manner in which a volunteer worker's average earnings will be determined in cases where the deemed employer does not record the deemed amount of earnings, as was the case in this appeal. However, the policy on insurable earnings states that, when a deemed employer does not specify a selected amount for a volunteer's insurable earnings, the WSIB automatically extends insurance at the annual maximum. The Vice-Chair found that this policy applied to deemed employers of volunteer forces, whether those employers are in Schedule 1 or Schedule 2 and concluded that the WSIB correctly based survivor benefits on the maximum earnings at the time. **Decision No. 1876/17R2, 2020 ONWSIAT 495**, also confirmed that when a municipality selects the annual maximum as the worker's pre-injury earnings, resulting in a wage loss post accident, the merits and justice provisions should not be applied to forgo entitlement to LOE benefits. The Vice-Chair confirmed that the clear intention of section 78(3) of the WSIA and WSIB policy is to allow municipalities to select a level of coverage for volunteer firefighters that is different from the level of their actual pre-injury earnings.

Decisions Regarding NEL Ratings

The WSIA provides non-economic loss (NEL) benefits for permanent impairment. As mentioned in prior Annual Reports, NEL appeals often require the WSIAT to interpret the *American Medical Association Guides to the Evaluation of Permanent Impairment* (3rd edition, revised) (AMA Guides), which is prescribed as the NEL rating schedule by O. Reg. 175/98. A worker is entitled to be assessed for a NEL award if the worker continues to have a permanent impairment after reaching maximum medical recovery (MMR). **Decision No. 179/20, 2020 ONWSIAT 1240**, involved the interpretation of Table 53 of the AMA Guides, which allows for an additional rating of 1% for each additional disc injury. The worker submitted that there were three levels of herniated discs, L4, L5 and S1, thus warranting the addition of 2% for two additional discs, rather than 1%. The Vice-Chair reviewed the WSIAT's Medical Discussion Paper on low back pain and noted that vertebrae are the blocks of bone in the spine, and a pair of vertebrae is called a spinal motion segment. The intervertebral disc is situated between the vertebrae, in other words, within a spinal motion segment. Accordingly, a disc, whether normal, herniated or bulging, is identified by the two vertebrae that surround it (e.g., L4-5 or

L5-S1 disc levels). Based on this anatomical understanding of the spine, although three vertebrae are associated with the compensable injury, the worker's entitlement involved injury to two discs: one at the L4-5 level, and another at the L5-S1 level. Accordingly, the WSIB's NEL rating was confirmed as correct under Table 53.

Noteworthy NEL cases released in 2020 also include **Decision No. 654/20, 2020 ONWSIAT 1114**, which noted that Table 3 of the AMA Guides indicates that the whole person impairment rating of the upper extremity may be rounded up to the nearest 5% when it is the only impairment involved. This language is permissive and does not mean that a worker's whole person impairment will automatically be rounded up. The Vice-Chair found that the worker was entitled to have the whole person impairment rating rounded up primarily because the worker's permanent right shoulder impairment involved his dominant right arm. The Vice-Chair noted that several WSIAT decisions have determined that the impairment rating for an upper extremity injury should be rounded up to the nearest 5% based, in large part, on the injury being to the dominant arm.

Interpretation of WSIB Policy

Subsection 126(1) of the WSIA states that, if there is an applicable WSIB policy with respect to the subject matter of an appeal, the WSIAT shall apply it when making its decision. Section 126(2) provides that the WSIB is to notify the WSIAT of the applicable policy. Section 126(4) sets out a process for the WSIAT to refer policy back to the WSIB if the WSIAT concludes that the policy is inapplicable, unauthorized or inconsistent with the Act. Under section 126(8), the WSIB is then to issue a written direction with reasons.

There may be situations where a party's circumstances are not specifically covered by WSIB policy, and judgement must be exercised in light of the statutory wording and proceeding by analogy to general guidance provided in WSIB policy. **Decision No. 901/20, 2020 ONWSIAT 1803**, allowed the worker's appeal and granted entitlement for traumatic mental stress. The traumatic mental stress policy requires a diagnosis in accordance with the criteria in the fourth edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV). The worker's treating psychologist provided a diagnosis of post-traumatic stress disorder, depression and anxiety but stated that the worker required a comprehensive assessment to confirm the exact diagnosis. The comprehensive assessment was not carried out because the worker lacked the funds for it. Nonetheless, the Vice-Chair found that there was sufficient certainty and reliability in the psychologist's diagnosis that it qualified as a medical opinion of a mental stress injury in accordance with the DSM-IV for the purpose of the policy.

Obligation to Re-employ

The WSIA creates a re-employment obligation where a worker has been continuously employed for one year. **Decision No. 318/20, 2020 ONWSIAT 1345**, considered the language in the WSIB's policy regarding the employer's obligation to re-employ a worker under section 41 of the WSIA. If an employer is obliged to re-employ the worker under section 41 and terminates the worker within six months, section 41(10) provides that the employer is presumed not to have fulfilled the employer's obligations under this section. The Panel found that WSIB policy makes it clear that the causation test for rebuttal of the presumption in section 41(10) of the WSIA is notably different than the "significant contributing factor" test applied in many other areas of workers' compensation law. The test imposed by section 41 of the WSIA, as interpreted by the WSIB's policy, means the employer cannot succeed in rebutting the presumption by showing only that the workplace injury was not a significant contributing factor in the termination. To rebut the presumption, the employer must demonstrate that the workplace injury played no role at all in the termination. If it played any role, then the presumption is not rebutted and the employer breached its re-employment obligation.

Right to Sue Applications

The workplace insurance scheme in Ontario is premised on the "historic trade-off" in which workers gave up the right to sue in exchange for statutory no-fault benefits. The WSIAT has exclusive jurisdiction to decide whether a worker's right to sue has been removed. Under the WSIA and earlier acts, employers are divided into two main categories, Schedule 1 and Schedule 2 employers. Under the statutory right to sue provisions, Schedule 2 employers have a broader right to sue and may be subject to a lawsuit more broadly than Schedule 1 employers. **Decision No. 1072/19, 2020 ONWSIAT 1724**, involved a case where the defendant had previously been a Schedule 2 employer but had applied and been accepted to be a Schedule 1 employer by the WSIB four years prior to the date the plaintiff suffered injuries. The plaintiff argued that some of the alleged negligent acts of the defendant's employees occurred when the defendant was registered in Schedule 2 and section 28(1) of the WSIA did not grant the WSIAT jurisdiction to find that a Schedule 1 worker has no right of action against a Schedule 2 employer. The Panel found that the critical date for making determinations about the status of the various parties and their rights is not the date of any alleged negligence but, rather, the date of accident. The entire WSIA scheme is set in motion once a worker sustains a personal injury by accident arising out of and in the course of employment. The ability to make a section 31 application is tied to the accident date, since there is no right to commence an action earlier. The Panel found that once the WSIB agrees to transfer an employer from Schedule 2 to Schedule 1, that employer enjoys the same protections as all other Schedule 1 employers and the plaintiff's right of action was taken away.

Section 13(3) of the WSIA provides that a worker is not entitled to benefits under the WSIA if the accident occurs while the worker is employed outside of Ontario, except as provided in sections 18 to 20 of the WSIA. **Decision No. 2148/19, 2020 ONWSIAT 1601**, turned on one of the exceptions in section 19(4), which provides that, if the accident happens outside of Ontario on a train, an aircraft or a vessel or on a vehicle used to transport passengers or goods, the worker is entitled to benefits under the WSIA if the worker resides in Ontario and is required to perform employment both in and outside of Ontario. The plaintiff suffered injuries while travelling by helicopter while working in Nunavut. The Vice-Chair found that only three of the four requirements listed in the exception in section 19(4) applied since the plaintiff did not perform his employment in Ontario. Accordingly, as the exception did not apply, the plaintiff's right of action was not taken away.

Decision No. 787/19, 2020 ONWSIAT 1085, also involved a right to sue application where the accident did not occur in Ontario. The Vice-Chair considered the doctrine of *lex loci delicti*, which provides that the law governing a tort action is the one where the event occurs, in the context of right to sue applications. The Vice-Chair considered the reasoning in *Benson v. Belair Insurance Co.*, 2019 ONCA 840, persuasive in clarifying that the *lex loci delicti* rule is restricted to tort law and does not apply more generally to relationships between parties in other legal contexts. The Vice-Chair found that, regardless of whether the laws of Ontario or of another province would apply to the plaintiff's tort action, her right to pursue the tort action in Ontario is dependent on determination of her right to sue under the provisions of the WSIA. The Vice-Chair found that sections 18(1) and (2) of the WSIA accurately described the circumstances of the parties – the plaintiff was a worker who was out of the province for less than six months and the employer was located in Ontario. Accordingly, the plaintiff's right of action was taken away.

Employer Issues

The quantum of Second Injury and Enhancement Fund (SIEF) cost relief is determined in accordance with the applicable policy matrix, which is based on the severity of the accident and the medical significance of the pre-existing condition. **Decision No. 322/20, 2020 ONWSIAT 629**, considered in detail how to determine the severity of the accident under the SIEF policy. The Vice-Chair noted that although components of "accident history" are identified in the SIEF policy, the term itself is not defined. There may be a difficulty in evaluating the severity of some accidents for the purposes of the policy, while trying to distinguish between the extent of disability that the mechanics of the accident would reasonably be expected to cause, and the accident. Considering the mechanics of the accident without considering the actual injuries caused by the accident in some cases has the potential to result in an incomplete understanding of the accident's severity.

Decision No. 3294/18, 2019 ONWSIAT 2837, considered whether costs for medical reports used to adjudicate and deny a claim should be used in determining an employer's experience rating calculation. The Vice-Chair found that the costs of these reports should be excluded from the employer's account as section 83(2) and (3) and WSIB policy only authorize the WSIB to determine an employer's premiums by considering accident costs. The Vice-Chair found there is no authority in the Act or WSIB policy to treat these costs as benefit costs.

Occupational Disease

Occupational disease cases, which involve workplace exposures to harmful processes or substances, often raise complex legal, medical and factual issues. Occupational diseases are compensable if they fall under the statutory definition of "occupational disease" or "disablement." The WSIA contains various rebuttable and irrebuttable presumptions for certain specified occupational diseases and exposures, and the WSIB has adopted policy on other diseases and exposures. There are also adjudicative advice documents which apply to some other occupational diseases. Occupational disease claims which are not subject to specific statutory or policy provisions are determined on their individual facts in accordance with the principles of causation.

Decision No. 554/20, 2020 ONWSIAT 1295, considered entitlement for liver cancer in a case where a worker had been exposed to ionizing radiation for 24 years and the medical literature identified a link between liver cancer and workplace exposure of 25 years. The Vice-Chair stated it was necessary to look at all of the evidence holistically, and not just rely on epidemiological evidence. The Vice-Chair found that the difference between 24 and 25 years of exposure was insignificant. The worker had significant occupational exposure over 24 years, was provided with limited protective equipment, and was likely exposed to varying amounts of ionizing radiation as reflected in the National Dose Registry. No non-occupational risk factors were identified. Accordingly, the Vice-Chair granted entitlement to liver cancer.

Decision No. 401/20, 2020 ONWSIAT 962, discussed the value of air conduction, bone conduction, and evoked potential (EP) testing in determining entitlement for noise-induced hearing loss (NIHL). The Vice-Chair noted that the WSIAT's Medical Discussion Paper on hearing loss discusses some of the audiometric testing procedures, including threshold EP testing. EP testing directly measures cortical response to sound stimuli. Because it does not depend on any voluntary response by the patient, EP testing can help establish with greater reliability the portion of any hearing loss that is purely sensorineural. Since NIHL is a sensorineural loss and bone conduction isolates the component of the loss that is purely sensorineural, bone conduction testing provides a better measure of NIHL. Air conduction values measure the overall hearing loss which includes both a conductive and a sensorineural hearing loss. As a conductive hearing loss would not be due to NIHL, bone conduction values are a better measure of pure

sensorineural hearing loss such as NIHL. The WSIB has a practice of using bone conduction values to make the determination of the degree of loss, but that practice has never been incorporated into its formal published NIHL policy. The Vice-Chair agreed with the WSIB's conclusion that, based on the EP and bone conduction results, the worker did not have entitlement for NIHL.

Several decisions examined entitlement for gastro-intestinal cancer due to asbestos exposure. The WSIB's policy, "Gastro-Intestinal Cancer-Asbestos Exposure," indicates that entitlement for primary cancers of the esophagus, stomach, small bowel, colon and rectum will be granted if there is a clear and adequate history of occupational exposure to asbestos dust and a minimum of 20 years between the first exposure to asbestos and the cancer diagnosis. **Decision No. 1064/20, 2020 ONWSIAT 1625, Decision No. 124/20, 2020 ONWSIAT 679, and Decision No. 356/20, 2020 ONWSIAT 1541**, all examined the issue of what constituted an adequate history of occupational exposure to asbestos dust and granted entitlement for the worker's gastro-intestinal cancer in each case.

COVID-19 Procedural Issues

The unique circumstances stemming from the COVID-19 pandemic led to several procedural issues, particularly with regard to appropriate hearing methods. To support the province-wide effort to stop the spread of COVID-19, the WSIAT created new practice and procedure documents, including the *COVID-19 Interim Practice Guideline: Objections to Alternative Hearing Methods*, which sets out factors to consider in determining the appropriate hearing format. **Decision No. 755/20, 2020 ONWSIAT 1428**, dealt with an employer's objection to a teleconference hearing on the basis of being unable to assess the witness' demeanour to determine credibility. The Vice-Chair reviewed the case law on demeanour and assessing credibility, such as *R. v. Rhayel*, 2015 ONCA 377, and found that even in cases where it was held that demeanour was an appropriate consideration, the consensus was that it should be considered with caution as it was open to misinterpretation and overemphasis by the adjudicator. The Vice-Chair concluded that the hearing would proceed as scheduled by teleconference. **Decision No. 916/20, 2020 ONWSIAT 1419, and Decision No. 737/20, 2020 ONWSIAT 1337**, also dealt with objections to alternative hearing formats.

In **Decision No. 943/20, 2020 ONWSIAT 1519**, the Chair reviewed the procedure for determining whether an appeal was suitable for an in-person hearing at the WSIAT during the COVID-19 pandemic, and determined this case was appropriate. The Chair included the *WSIAT Guidelines for the Resumption of In-Person Hearings During COVID-19* (Guidelines) as an appendix to the decision. The Chair also noted that while the Guidelines normally do not allow observers or support persons to attend

during the pandemic, the worker's spouse was allowed to attend as it was essentially a request for accommodation due to the worker's psychological condition.

Other Legal Issues

Under section 129 of the WSIA, the WSIAT may reconsider its decisions at any time if it considers it advisable to do so. There were several interesting reconsideration decisions released in 2020. **Decision No. 1818/18R2, 2020 ONWSIAT 1848**, involved unique circumstances where the threshold test for a reconsideration had been found to be met due to new surveillance evidence. The employer that brought the reconsideration request then advised that it did not want to pursue the reconsideration. The Chair noted that, given the circumstances of this reconsideration and the doubt about the worker's credibility, it would not be advisable for the WSIAT to pursue the reconsideration on its own motion, in the employer's absence, as it could potentially place the WSIAT in the inappropriate position of being seen as the worker's adversary in pursuit of the re-hearing of the appeal.

Decision No. 1891/18IR, 2020 ONWSIAT 1093, found that as a matter of statutory interpretation, the phrase "final decision of the WSIB" ought to be construed broadly and purposively to determine the scope of the WSIAT's jurisdiction. This approach is consistent with the statutory purposes of the WSIA. The parties as well as the compensation system benefit from a broad approach to jurisdiction which resolves workplace disputes efficiently and with less cost. The Chair emphasized the undesirability of "jurisdictional ping pong." A strict interpretation of section 123 of the WSIA has the potential to create this ping pong effect where workers and/or employers are tossed back and forth between the WSIB and WSIAT, resulting in delays, a lack of finality, and inconsistency with section 1. The Chair also noted that WSIAT case law has found jurisdiction over issues implicitly considered by the WSIB at the final level of decision-making.

“ To support the province-wide effort to stop the spread of COVID-19, the WSIAT created new practice and procedure documents, including the **COVID-19 Interim Practice Guideline: Objections to Alternative Hearing Methods**, which sets out factors to consider in determining the appropriate hearing format. ”

Decision No. 2863/17R, 2020 ONWSIAT 1527, clarified the WSIAT's *Practice Direction: Reconsiderations* and confirmed that a party who does not participate in the original hearing may still make a reconsideration request, although it may not succeed since the high threshold for reconsideration is not reduced simply because the party chose not to participate in the initial hearing. The reconsideration application was denied as the evidence relied on was not new evidence but readily available evidence that could have been presented at the initial hearing if the party had participated.

In addressing requests for reconsideration which submit that the reasons for the original decision are insufficient, the WSIAT has taken into account the principles enunciated by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (*Vavilov*). **Decision No. 3247/18R, 2020 ONWSIAT 1084**, relied upon the reasons of the majority of the Court in *Vavilov* for the proposition that the standard for a reasonable decision is one that is "both based upon an internally coherent reasoning and justified in light of the legal and factual constraints that bear upon the decision." The Vice-Chair in *Decision No. 3247/18R* also cited the "hallmarks of reasonableness" identified by the majority of the Court, namely, justification, transparency, and intelligibility. In **Decision No. 1515/19R, 2020 ONWSIAT 1249**, the Vice-Chair noted that the majority of the Court in *Vavilov* stated that the reasonableness of a decision "must not be assessed against a standard of perfection."

Decision No. 3196/18R, 2020 ONWSIAT 858, examined the issue of notifying parties of a potential downside risk. The Vice-Chair found that in order to decide whether the duty of procedural fairness requires that notice of a downside risk be given in a particular case, it is necessary to determine whether the party was, or should reasonably have been, aware of the downside risk. The Vice-Chair stated that the presence of downside risk due to a downside result in the appeal proceeding itself is not a basis to notify a party of a downside risk where the downside risk is knowable to parties and decision-makers simply based upon the nature of the appeal itself. The second type of downside risk is the potential for a WSIAT decision to create negative consequences as a result of the secondary effect that the decision may cause in other proceedings, including future decisions by the WSIB. In the second type, parties should be notified of the potential downside risk. As this case involved an employer's claim for greater SIEF relief, the Vice-Chair found the type of downside risk fell into the first type of downside risk where the risk is inherent and no further notice to the party was required.

The issue of burden of proof was also discussed in several WSIAT decisions in 2020. **Decision No. 2237/19, 2020 ONWSIAT 482**, discussed the issue of burden of proof

in the context of a transfer of costs situation. **Decision No. 362/20, 2020 ONWSIAT 1713**, discussed the issue of burden of proof in a situation where the representative provided no submissions and no specific basis for their appeal.

In keeping with the WSIAT's practice, **Decision No. 3503/18IR, 2020 ONWSIAT 1605**, decided the merits of the appeal before determining whether refusing to review the worker's entitlement to LOE benefits under section 44 violated his rights under the *Canadian Charter of Rights and Freedoms (Charter)*. The worker requested a reconsideration of the decision on the merits on the basis that the original Panel went beyond the legal question before them. The Vice-Chair denied the reconsideration request and noted that the WSIAT has jurisdiction to address sequential issues and that it is in the discretion of the Panel or Vice-Chair whether those issues will be addressed. The Vice-Chair found that, in order to determine the merits of the issue, it was necessary for the Panel to determine whether the worker would have been entitled to LOE benefits irrespective of the provision objected to under the *Charter*.

The WSIAT has taken steps to ensure that representatives meet the Law Society of Ontario's requirements under the *Law Society Act (LSA)*. In a preliminary matter, the Vice-Chair in **Decision No. 766/20, 2020 ONWSIAT 1526**, allowed the representative to act for the worker as he appeared to meet the Law Society of Ontario requirements for out-of-province lawyers to practice law in Ontario on an occasional basis under By-Law 4 of the LSA, as he practiced for under 100 days per year in Ontario and his driver's license indicated he was a permanent resident of another province.

Decision No. 2391/17R, 2020 ONWSIAT 737, examined the appropriateness of requesting an assessor's opinion and when to object to the Panel's findings of fact put to the assessor. The Vice-Chair noted that if the representative had wished to question the Panel's findings about exposure, the time to request a reconsideration of those findings was before the Panel's questions were referred to the assessor and not after the assessor's report was written and the final decision was released.

Section 63 of the WSIA allows Schedule 2 employers to arrive at a settlement agreement with a worker to fix the amount of payments made under the insurance plan or to agree to a specified amount in lieu of payments a worker is entitled to under the insurance plan. In **Decision No. 2091/19, 2020 ONWSIAT 786**, an employer and worker entered into an agreement under section 63 of the WSIA which was approved by the WSIB, but the employer subsequently appealed issues related to benefits. The Panel considered section 63(3) of the WSIA and dismissed the employer's appeal. The subsection reinforced that the agreement was meant to embody a mutual acknowledgement by the parties with respect to the worker's entitlements as they stood at the time of the agreement and the payment that was made under that agreement. Although the section left the parties free to choose the monetary value

of the payment, the very fact of entering into the section 63 agreement effectively crystallized the worker's entitlements as they had been determined up to that point in time. If section 63(3) was not interpreted in this way then it would not appear to have any purpose.

Decision No. 1875/19I, 2020 ONWSIAT 1212, examined the issue of the admissibility of a disciplinary decision by the College of Physicians and Surgeons of Ontario (CPSO) in light of section 36(3) of the *Regulated Health Professions Act, 1991* (RHPA). The Vice-Chair stated that the discipline information can potentially be highly relevant when weighing a medical opinion or when determining if the doctor in question even qualifies as an expert. However, the distinction between admissibility and relevance must be borne squarely in mind. Admissibility is a threshold question of whether the evidence can be considered at all; it is separate from relevance. Where evidence is wholly inadmissible based on an exclusionary rule, the question of relevance does not arise. The Vice-Chair concluded that the CPSO decision was not admissible under section 36(3) of the RHPA, although the Vice-Chair saw nothing in the wording of the section that would prevent the worker from testifying to the fact that he made a complaint to the CPSO.



APPLICATIONS FOR JUDICIAL REVIEW AND **OTHER LITIGATION MATTERS**

Since its creation in 1985, the WSIAT has released over 84,000 decisions. When considering applications for judicial review of WSIAT decisions, both the Divisional Court and the Ontario Court of Appeal have recognized the specialized expertise of the WSIAT and have accorded deference to the WSIAT's decisions.

This section summarizes activity with respect to judicial review applications in 2020. The WSIAT's General Counsel and lawyers from the Tribunal Counsel Office represent the WSIAT in judicial review applications and other litigation, and also co-ordinate representation when external counsel is retained to represent the WSIAT in judicial review applications or other litigation.

On December 19, 2019, the Supreme Court of Canada issued *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (CanLII) (*Vavilov*). Prior to the release of *Vavilov*, the Supreme Court of Canada had last addressed the appropriate approach to judicial review in a comprehensive manner in its seminal 2008 decision, *Dunsmuir v. New Brunswick*, 2008 SCC 9 (CanLII).

In the *Vavilov* decision, a seven-member majority of the Court identified two major aspects of the law applicable to judicial review requiring simplification and clarification. First, the majority outlined a revised and more simplified framework for determining the appropriate standard of review. Second, the majority provided clarification and guidance about the review of reasons on a standard of reasonableness. The new *Vavilov* framework was applied to WSIAT decisions for the first time in *Radzevicius v. Workplace Safety and Insurance Appeals Tribunal*, 2020 ONSC 319, which is summarized below.

2020 Judicial Review Applications – By the Numbers

In 2020, eight new judicial review applications were initiated concerning the following WSIAT decisions:

- *Decision No. 1986/19*
- *Decisions No. 3144/18I and 3144/18*
- *Decisions No. 3709/17 and 3709/17R*
- *Decision No. 930/19*
- *Decisions No. 2057/15I, 2057/15 and 2057/15R*
- *Decisions No. 1227/19 and 1227/19R*
- *Decisions No. 626/19 and 626/19R*
- *Decisions No. 1234/17I, 1234/17 and 1234/17R*
- One judicial review hearing was postponed in light of the COVID-19 pandemic.
- Several applications initiated in 2019 and 2020, including the judicial review application concerning *Decisions No. 178/17 and 178/17R*, were scheduled to be heard in 2021.
- The Divisional Court dismissed two judicial review applications of WSIAT decisions in 2020. In the decision *Taylor v. Pivotal Integrated HR Solutions, 2020 ONSC 6108*, the Divisional Court dismissed the application concerning *Decisions No. 691/05 and 691/05R* as an abuse of process. The other decision issued by the Divisional Court, *Radzevicius v. Workplace Safety and Insurance Appeals Tribunal, 2020 ONSC 319*, is described below.
- The Ontario Court of Appeal also dismissed a motion to seek leave to appeal related to *Decisions No. 1791/07, 1791/07R, 1791/07R2* and decision letters dated December 5, 2016 and July 24, 2019.

Radzevicius v. Workplace Safety and Insurance Appeals Tribunal

On January 23, 2020, the Ontario Divisional Court issued *Radzevicius v. Workplace Safety and Insurance Appeals Tribunal, 2020 ONSC 319*. In this decision, the Divisional Court applied the *Vavilov* framework to a decision of the WSIAT for the first time.

When determining the applicable standard of review, the Divisional Court referred to *Vavilov* and concluded that the appropriate standard of review was reasonableness. The Court made this determination as none of the questions before the Court were constitutional questions, general questions of law of central importance to the legal system as a whole, or questions regarding the jurisdictional boundaries between administrative bodies. The Court also noted that the *Workplace Safety and Insurance Act, 1997* contains a robust privative clause, which shows that the “Legislature has clearly signaled its intention that the WSIAT’s decisions be given great deference.”

The Divisional Court began its reasonableness review by noting the guidance provided in *Vavilov*, particularly, that a reviewing court must give careful attention to the reasons of the WSIAT, which must be read in light of the record and with sensitivity to the administrative regime in which they were given.

In this case, the Divisional Court concluded that both of the WSIAT’s decisions being reviewed, *Decisions No. 515/14* and *515/14R*, were reasonable. The WSIAT satisfied its obligation to explain its conclusion, the reasoning was coherent and logical, and when read in their entirety, the decisions demonstrated a logical and justified explanation for the outcomes reached. The Divisional Court recognized the WSIAT as a specialized tribunal, and this was a unanimous decision of a Panel of three members. There were no fundamental flaws or gaps in the analysis. While the WSIAT’s reasons were “not perfect,” they were not required to be. Accordingly, the application for judicial review was dismissed.

Overall, in deciding to dismiss the application for judicial review, the Divisional Court noted that *Vavilov* has not significantly changed reasonableness review and judicial review begins with judicial restraint and respect for the distinct role of administrative decision-makers.



OMBUDSMAN REVIEWS

The Ombudsman's Office has the authority to investigate complaints about the Government of Ontario and its agencies, including the WSIAT.

When the Ombudsman's Office receives a complaint about a WSIAT decision, the Office considers whether the decision is authorized by the legislation, whether the decision is reasonable in light of the evidence and whether the process was fair. In some cases, the Ombudsman's Office may make informal inquiries in order to satisfy itself that the decision was reasonable and the process fair.

If the Ombudsman's Office identifies issues which indicate the need for a formal investigation, the WSIAT will be notified of the Ombudsman's intent to investigate.

The WSIAT has not received any intent to investigate notifications from the Ombudsman's Office since 2012. There were no outstanding intent to investigate files in 2020.

TRIBUNAL REPORT



TRIBUNAL ORGANIZATION

Vice-Chairs, Members and Staff

Lists of the Vice-Chairs and Members, senior staff and Medical Counsellors who were active at the end of the reporting period can be found in Appendix A.

Executive Services

Executive Services is led by the Tribunal Chair, who is responsible for the overall strategic direction and performance of the WSIAT. The Chair also directs the preparation of business planning and reporting.

Executive Services includes the Senior Manager, Executive Services, who manages and co-ordinates activities within the offices. In addition, a small group of Executive Services staff support the Tribunal Chair in achieving the WSIAT's strategic objectives through various programs, services and the day-to-day operations, with a particular focus on supporting Order in Council (OIC) appointees and OIC initiatives including recruitment, re-appointment and adjudicator training. The Executive team also includes the Lead, Strategic Initiatives, Counsel Special Projects and the Adjudication Support Group, which is responsible for processing all decisions prepared by Vice-Chairs and Panels.

In 2020, the Executive team:

- Supported the WSIAT's response to the COVID-19 pandemic and business continuity planning initiatives, notably the transition from in-person hearings to remote alternative hearing methods, the return to in-person hearings, e-filing and the launch of a remote decision release process to support decision release while on-site services were reduced.
- Released approximately 721 decisions under the COVID-19 remote decision release process. Where possible, decisions were released by fax. Other options included seeking consent from parties and representatives to release anonymized decisions by email and, in exceptional circumstances, making decisions accessible through the WSIAT website. Decisions

returned to being released by regular mail in the summer of 2020 with the reopening of the mailroom.

- Carried out four merit-based competitions and successfully recruited eight Vice-Chairs (two full-time and six part-time), one Member representative of workers and one Member representative of employers.
- Offered the WSIAT's first remote orientation training program to its newly appointed OICs, which included review of workplace safety and insurance legislation and applicable policies, the evaluation of medical evidence, hearing observations and decision writing exercises as well as cultural competence training.
- Supported OIC adjudicator development through ongoing training on legal, medical and ethical topics and the WSIAT's Performance Development and Review program, which recognizes OIC contributions to the adjudicative process, identifies professional development opportunities and supports the Order in Council re-appointment process.
- Supported a number of stakeholder outreach meetings, consultations and training sessions throughout the year as the WSIAT continued to update the stakeholder community on its operations.

Human Resources and Administration

The Human Resources and Administration department is a dedicated team of professionals led by the Director of Human Resources and Administration.

Human Resources

Human Resources is responsible for strengthening organizational capacity through talent management strategies and the promotion of positive labour relations; leveraging organizational efficiencies through modernization and organizational development; and cultivating an inclusive, accessible and healthy work environment.

In 2020, key Human Resources initiatives were directed primarily at supporting the WSIAT's response to the COVID-19 pandemic while continuing to deliver core human resources services without interruption, both in the physical office and remotely. Specifically, the Human Resources team:

- Contributed to the development of policies and practice documents for remote work.

- Provided support, wellness tools and self-care resources to staff and Order in Council appointees to help them navigate the challenges of the COVID-19 pandemic and working remotely.
- Provided remote recruitment processes and virtual training and development programs to maximize organizational capacity while protecting the health and safety of all candidates and employees.
- Provided enhanced human resources and pay and benefit processes to facilitate the transition to remote work.

In 2020, the WSIAT continued its commitment to a diverse, inclusive, accessible and healthy workplace by making continued investments in its diversity program. The WSIAT Chair appointed the Manager, Human Resources as the WSIAT's Equity, Diversity, and Inclusion (EDI) Champion in order to raise awareness and facilitate the achievement of EDI goals within the agency.

Administration Services

Administration Services is responsible for the emergency management and security program, space and facilities management, as well as capital projects.

In 2020, the Administration Services team contributed to the WSIAT's efforts to control the risk of COVID-19 as follows:

- Administered elimination controls, engineering controls, administration controls and personal protective equipment in the WSIAT's Toronto offices and the Hamilton Hearing Centre.
- Procured all necessary personal protective equipment, including medical masks, gloves, hand sanitizer and cleaning/sanitizing supplies for employee and OIC use.
- Participated in the risk assessment of the WSIAT's workplaces in Toronto and Hamilton, which was conducted by the Public Services Health and Safety Association (PSHSA).
- Implemented the recommendations of the PSHSA.

In 2020, Administration Services also initiated a review of the WSIAT's security, emergency management and business continuity programs to further enhance and safeguard the health and safety of WSIAT employees, OICs, clients and visitors during COVID-19 pandemic and beyond.

Finance

The Finance department is responsible for the financial operations of the WSIAT. Finance staff provide financial, budgetary and purchasing and procurement support, as well as assistance to the WSIAT's senior management group, staff and Order in Council appointees. Financial reporting requirements, including providing monthly and yearly reports to federal and provincial agencies, are met through Finance. The Finance department also completes monthly remuneration and payroll activities for all the WSIAT's part-time adjudicators. Other critical functions include maintaining the WSIAT's financial systems; planning, developing and monitoring the annual budget; and designing, implementing and maintaining appropriate internal financial controls.

The Finance department is led by the Corporate Controller.

The public health restrictions related to the COVID-19 pandemic and the ensuing health restrictions required Finance to transition from a paper-based operation into a digital paperless environment. Like many of the WSIAT's other departments, Finance staff quickly adapted to the new and challenging environment.

At the beginning of 2020, prior to the COVID-19 pandemic, one of Finance's goals was to achieve a 90% paperless environment within 3 to 5 years. In response to the challenges of the COVID-19 pandemic and the requirement to provide financial services remotely, Finance has achieved the 90% paperless environment in nine months. The Finance team will continue on this path of digitization and modernization in their operations to better serve their customers in the coming years.

In 2020, the Finance team:

- Digitized workflow processes to provide remote financial services for vendors, staff and OICs.
- Set up 200 new vendors to receive electronic funds transfer (EFT) payments.
- Processed over 1,000 electronic EFT payments.

Office of the Counsel to the Chair

The Office of the Counsel to the Chair (OCC) is an expert legal department that provides advice to the Tribunal Chair and the Chair's Office, particularly with respect to complex reconsideration requests, post-decision inquiries, Ombudsman inquiries and other complaints. OCC performs draft review of WSIAT decisions, and is responsible for facilitating compliance with the *Freedom of Information and Protection of Privacy Act* (FIPPA) and for responding to FIPPA complaints and appeals. OCC lawyers also conduct research and participate in training and professional development.

OCC is led by the Counsel to the Chair, and includes lawyers and administrative staff.

In 2020, OCC was able to continue its core functions despite the difficulties caused by the COVID-19 pandemic. The Counsel to the Chair and the Associate Counsels to the Chair continued to perform draft decision review in a timely fashion and in accordance with natural justice principles and the WSIAT's *Guidelines for Review of Draft Decisions*.

One of OCC's ongoing priorities in 2020 was the professional development of staff and Order in Council appointees. OCC ensured they were apprised of statutory and policy amendments, as well as developing case law from the WSIAT and the Courts.

Specifically, OCC:

- Participated in training and supporting OICs in their transition to working remotely and performing hearings electronically.
- Adapted its orientation program and provided remote education sessions to the five new Vice-Chairs appointed in 2020.
- Helped to create the WSIAT's best practices documents and train representatives on participating in teleconference and videoconference hearings.
- Presented professional development programs remotely.
- Developed knowledge management resources that facilitate access to information on law, policy and procedure through electronic means.
- Provided a case law update at the December 2020 stakeholder event and planned for similar updates at upcoming events in 2021.

The WSIAT's Publications Counsel is also a member of OCC. During 2020, the Publications Counsel processed and assigned keywords to 2,140 decisions and summarized 962 decisions. The Publications Counsel increased the percentage of summarized decisions from 36.5% in 2019 to 46.2% in 2020.

Office of the Vice-Chair Registrar

The Office of the Vice-Chair Registrar (OVCR) staff are the primary point of contact for appellants, respondents and representatives with an appeal or application at the WSIAT. Staff complete all initial processing of appeals and applications, ensure that cases are ready for hearing, monitor cases up to the hearing date, and complete any post-hearing work.

The OVCR operates under the guidance of the Vice-Chair Registrar and is led by the Director of Appeal Services.

In 2020, the OVCR's key focus was to maintain service and production levels during the COVID-19 pandemic with most staff working remotely, and to continue to work on initiatives to reduce timelines to hearing. The OVCR made significant changes to internal processes to ensure timely processing of appeals:

- Developed a new centralized printing and mailing process which allowed most staff to work remotely, while a dedicated group of staff remained on site to ensure that operations continued.
- Moved the WSIAT's Call Centre off site and created a Call Centre email account so the WSIAT could be as responsive as possible to stakeholders while working remotely.
- Worked with the WSIAT's Scheduling department to transition from in-person hearings to alternative hearing formats (teleconference and videoconference) to support the WSIAT's key objectives of access to justice and continuing to deliver excellence in adjudication.
- Created electronic case materials for OICs to ensure that teleconference, videoconference and written hearings proceeded in a timely way.

While all of the departments in the OVCR did a tremendous job in keeping up with the timely processing of appeals, the Alternative Dispute Resolution (ADR) department had a particularly successful year. They were able to seamlessly transition to remote work and continued to offer services through the WSIAT's Early Intervention Program. In 2020, the ADR department resolved* 254 cases, an increase of 41% over the previous year. The ADR department also added two-party mediations to the services available to stakeholders. These results continue to support that having frank, substantive discussions with the parties early in the process can resolve some cases without the need for an oral hearing.

Tribunal Counsel Office

The Tribunal Counsel Office (TCO) provides legal and medical expertise to adjudicators and parties who appear before the WSIAT. Under the direction of the Tribunal General Counsel, the TCO group provides assistance with both appeal-related and non-appeal related issues. The TCO group consists of TCO lawyers, TCO support staff, and the Medical Liaison Office.

The Tribunal General Counsel and TCO lawyers provide legal assistance with respect to the WSIAT's own adjudication, and also act as the WSIAT's in-house counsel, providing advice and support in relation to corporate issues. All of the WSIAT's litigation is also

* Resolved in the ADR context means by way of a proposed resolution or a withdrawal.

managed by the General Counsel with assistance from the TCO lawyers and occasionally external legal counsel. The Medical Liaison Office (MLO) plays a central role in providing assistance in relation to medical issues that arise in WSIAT appeals. Under the direction of the MLO Manager, some of the important assistance that MLO provides includes co-ordinating the WSIAT-initiated assistance obtained from Medical Counsellors and Medical Assessors, and leading and supporting medically-focused educational activities for WSIAT staff and adjudicators.

All of the work of TCO is supported by a dedicated team of administrative staff, led by the Manager, TCO Administrative Services.

Highlights of TCO's work in 2020:

- In 2020, the WSIAT's Access to Justice Working Group continued to support meaningful participation and the removal of barriers for all parties. The Tribunal General Counsel is the Chair of this group and along with members of TCO, including TCO lawyers, led and contributed to a number of the working group's initiatives, including the refresh of the WSIAT's external website.
- TCO also supported important updates to the WSIAT's accessibility processes, including helping to revise the accessibility section of the WSIAT's external website.
- TCO was actively involved in supporting the WSIAT's response to the COVID-19 pandemic, including assisting with time-sensitive procurement and helping to develop internal and external resources, including new guidelines for teleconference and videoconference hearing expenses, as well as guidelines for the gradual resumption of in-person hearings and other COVID-19-related adjudicative updates.
- At the same time, TCO continued to provide assistance in appeals and right to sue applications. TCO lawyers provided support, including making submissions and questioning witnesses, in over 100 WSIAT matters in 2020.
- MLO oversaw the update of two Medical Discussion Papers in 2020: the "Depression" paper, which was revised by Dr. Emmanuel Persad and Dr. Mark Berber, and the "Shoulder Injury and Disability" paper, which was revised by Drs. Terry and Daniel Axelrod. Both of these papers, along with the *WSIAT Guide to Medical Information and Medical Assessors* (previously named the *WSIAT Guide: WSIAT-Initiated Assistance for Medical Issues*) are available on the WSIAT's website.
- Finally, MLO continued its efforts to retain qualified Medical Assessors to provide assistance in WSIAT appeals. In 2020, MLO recruited new Medical Assessors in the areas of orthopaedics (spine), thoracic surgery, neuropsychology and dermatology.

Scheduling

The WSIAT's Scheduling department co-ordinates the scheduling of hearing dates for oral hearings, mediations and teleconference and videoconference hearings. Sitting dates are also assigned for written appeals and reconsideration requests. In addition to scheduling hearings and pre-hearing conferences, staff secure interpreter services, regional boardrooms and service of summonses, and facilitate the accessibility needs of the parties to allow for full participation in hearings.

Scheduling is led by the Manager, Scheduling Administration.

In 2020, the Scheduling department scheduled:

- 939 written hearings, including time extensions, access cases and proposed resolutions;
- 186 oral hearings in person;
- 406 oral hearings by teleconference; and
- 214 oral hearings by videoconference.

Scheduling responded to the restrictions related to the COVID-19 pandemic by shifting from in-person hearings to videoconference, teleconference and written hearing formats. Scheduling staff was also able to resume usual operations, including sending correspondence and notices of hearing, arranging interpreter services, and issuing summonses to witnesses.

Prior to the COVID-19 pandemic, in addition to hearings in Toronto, the WSIAT regularly scheduled hearings in Hamilton, London, Ajax, Ottawa, Sault Ste. Marie, Sudbury, Thunder Bay, Timmins and Windsor. From March to December 2020, the WSIAT did not conduct in-person regional hearings but was able to proceed with adjudication of regional appeals by way of videoconference, teleconference and written hearing formats.

In 2020, Scheduling continued to focus on the goal of reducing the wait time to hearing for all appeals and meeting monthly hearing targets, which are based on incoming appeal volumes and projections and adjudicative capacity. Thanks to the efforts of Scheduling department staff, in 2020 the wait time from the date an appeal was ready to proceed to the first-proposed hearing date was reduced from 9.7 months in 2019 to 7.8 months in 2020. For oral hearings, the wait time was reduced from 10 months in 2019 to 9.3 months in 2020. For written appeals, the wait time was reduced from 9.3 months in 2019 to 6.6 months in 2020.

Information and Technology Services

The Information and Technology Services (ITS) department provides and supports the information technology infrastructure and information systems for the WSIAT. ITS develops the WSIAT's information strategy, enables technology solutions, and monitors system infrastructure.

ITS is divided into four teams: Information Services, Systems Technology and Database and Application Development, User Support Services and Cyber Security.

Information Services

The Information Services team's primary role is to operate the Ontario Workplace Tribunals Library (OWTL) and provide French translation, web content development and reception services. The OWTL provides library services to the Workplace Safety and Insurance Appeals Tribunal, Ontario Labour Relations Board and Pay Equity Hearings Tribunal.

In 2020, Information Services:

- Answered 497 reference questions concerning workplace safety, worker's compensation, labour relations, union certification, pay equity matters, and general legal and legislative research.
- Delivered training programs to adjudicators and other staff on topics such as labour, workers' compensation and protecting online information.
- Contributed content to the WSIAT's update of its public website.
- Translated 420,000 words, for a total of 577 official translations. Documents translated by Information Services included decisions, correspondence, public notices and guidelines related to the COVID-19 pandemic, and new content for the public website.

Systems Technology and Database and Application Development

This team develops applications and supports and protects the WSIAT's computing infrastructure. In 2020, the Systems team:

- Ensured that all information technology systems and services operated effectively.
- Supported the WSIAT's remote hearing initiative by ensuring secure access to a videoconference platform and making ease-of-use improvements to online systems.

- Provided audio equipment for socially distanced in-person hearings.
- Implemented an e-filing service to facilitate the submission of secure documents and forms.
- Re-engineered the hearings scheduling application to support videoconference and teleconference hearings, as well as in-person hearings with remote participants.
- Re-designed the new public website to comply with the *Accessibility for Ontarians with Disabilities Act, 2005* and improve access to justice through ease of navigation and plain language.
- Acquired remote access licenses, two-factor authentication security tokens, laptops, LCD displays, remote access servers, mobile communication devices, mobile device management and other systems monitoring and management tools to support the work-from-home initiative in response to the COVID-19 pandemic.

User Support Services

User Support Services ensures that information technology resources and services are available to WSIAT OICs and staff. Staff also conduct new user orientation and topical seminars for adjudicators and staff. In 2020, User Support Services:

- Handled, on average, 570 support service requests each month, including software application support, equipment servicing, network account management and equipment booking.
- Provided regular feedback to individuals, teams and the senior managers regarding caseload intake, caseload movement and productivity.

Cyber Security

The Cyber Security team ensures the WSIAT's technical environment and systems processing activities conform to the Information Technology Security Framework. In 2020, the Cyber Security team:

- Deployed a new data loss prevention tool.
- Elevated the authentication and authorization security levels through a password policy upgrade and access control enhancement.
- Created a cyber security awareness program and provided tip sheets and industrial best practices to WSIAT staff and OICs.



CASELOAD PROCESSING

Introduction

The WSIAT is the final level of appeal to which workers and employers may bring disputes concerning workplace safety and insurance matters in Ontario. The WSIAT also hears matters concerning the right to sue and such other matters assigned to it under the *Workplace Safety and Insurance Act, 1997* (WSIA).

Appeals proceed through a two-part application process. To start an appeal and meet the time limits in the legislation, an appellant files a Notice of Appeal form (NOA). Appeals remain at the notice stage while preliminary information is gathered and until the appellant indicates readiness to proceed to an appeal hearing. The appellant indicates readiness by filing a Confirmation of Appeal form (COA). Once a COA is received, the appeal enters the second, resolution processing stage.

If an appellant does not respond to WSIAT communications or is not ready to proceed while in the notice stage, the case is placed into dormant status. The appellant has up to two years to file a COA to advance their appeal. If an appellant does not file the form by the required time limit, the case is closed as abandoned. The WSIAT notifies the appellant twice of the two-year time limit before the case is closed as abandoned.

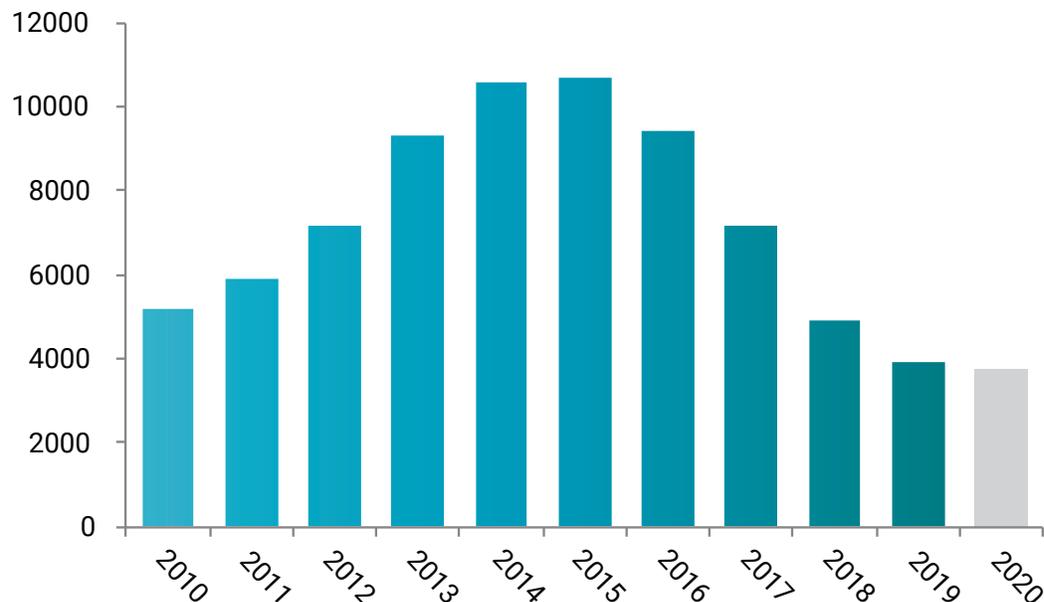
Caseload

At the end of 2020, there were 3,750 cases within these two process stages. This total was 5% lower than the total at the end of 2019. Chart 1 provides the 2020 caseload breakdown by processing stage, and Chart 2 shows how the 2020 volume compares with previous year-end volumes.

CHART 1: Cases in Process (December 31, 2020)

TYPES OF CASES IN PROCESS	NO. OF CASES
Notice of Appeal Stage	1,830*
Early Review Stage	40
Substantive Review	496
Hearing Ready	86
Scheduling and Post-hearing	981
Decision Writing	317
TOTAL CASES IN PROCESS	3,750

*Includes 847 Dormant cases.

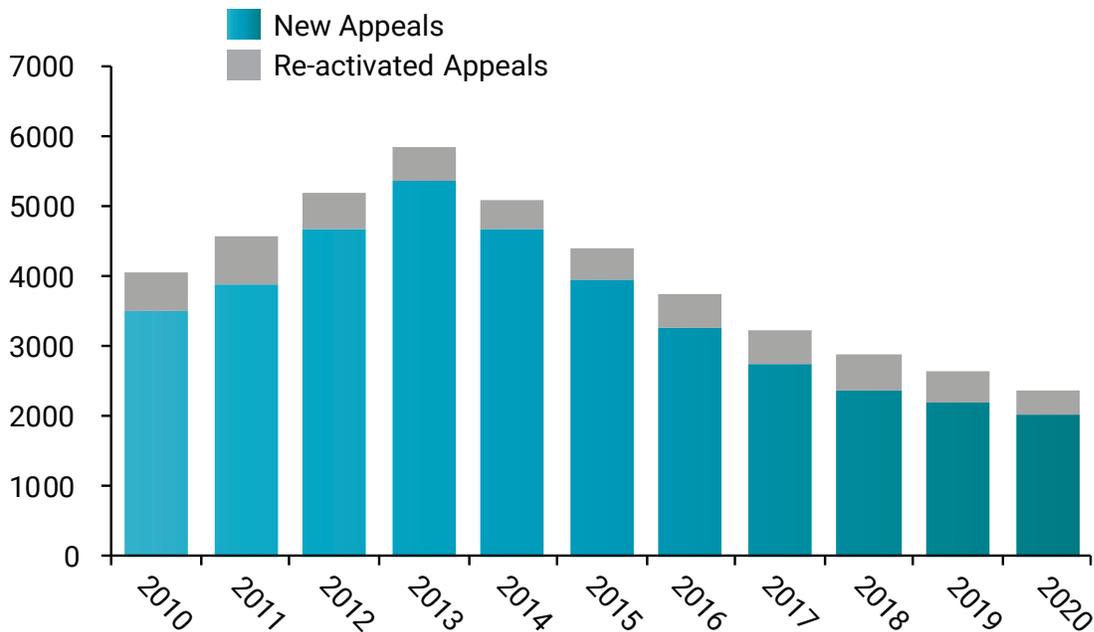
CHART 2: Historical Comparison of Cases in Process

Incoming Appeals

The incoming caseload trend is shown in Chart 3. In 2020 the WSIAT's overall intake from new appeals and reactivations totalled 2,384, which represented a total decrease of 10% as compared with the 2019 intake total. Reactivations are appeals in which the

appellant has indicated a readiness to proceed with the appeal following an inactive period, during which the appellant may have acquired new medical evidence, received another final decision from the Workplace Safety and Insurance Board (WSIB), or sought new representation. New appeals to the WSIAT are appeals of final decisions made by the WSIB.

CHART 3: Incoming Appeals



Case Dispositions

A disposition is the completion of administrative activity following a WSIAT review with no further action possible; an interim or final decision; or a mediation or alternative dispute resolution disposition. An appeal may be disposed of either by closure or becoming inactive.

The majority of dispositions are appeals closed by a decision following an oral or written hearing (69%). The WSIAT is required by subsection 131(4) of the WSIA to issue decisions with written reasons to the parties and to notify the WSIB of the decision.

Closed appeals also include withdrawals by the parties or settlements between the parties. Settlements are achieved by alternative dispute resolution practices such as telephone discussions regarding issue agendas and evidence; file reviews for jurisdiction issues; or compliance with time limits.

An inactive disposition occurs when the parties are unable to proceed with their appeal and proceeding further would be prejudicial to the parties and may place the WSIAT in conflict with the rules of natural justice. While inactive, it is the appellant's responsibility to resolve the matters that led to the inactive status and to notify the WSIAT of their intention to proceed with their appeal.

Chart 4 shows that the WSIAT disposed of 2,560 cases in 2020 compared to 3,631 in 2019. The slight reduction of dispositions in 2020 compared to 2019 is due to a disruption in service following the closure of WSIAT offices due to the COVID-19 pandemic and the need to convert in-person hearings to written, teleconference and videoconference hearings.

CHART 4: Cases Disposed of in 2020

DISPOSITIONS	NUMBER OF CASES	PERCENT OF TOTAL DISPOSITIONS
Decision Following Hearing*	1,760	69%
Withdrawn, Abandoned	435	17%
Made Inactive	365	14%
TOTAL DISPOSITIONS	2,560	100%

* "Decision following Hearing" dispositions may not equal the number of decisions released in a year due to administrative constraints at year end that preclude the appeal from being disposed immediately following the decision.

Inactive Cases Inventory

Cases are placed in the inactive disposition category by request of the appellant or by a Vice-Chair or Panel. The most common reasons are to allow an appellant to obtain additional medical reports or other relevant evidence; retain a representative; or obtain a final ruling from the WSIB related to an issue before the WSIAT.

At the end of 2020, there were 904 cases in the inactive cases inventory. These cases were made inactive either in 2020 or in previous years, and were inactive at the end of 2020. The inactive cases inventory at the end of 2020 was 7% lower than the inactive cases inventory at the end of 2019.

Appeal Classification by Issues

Chart 5 shows the percentage breakdown of appeal issues among the appeals disposed of in 2020.

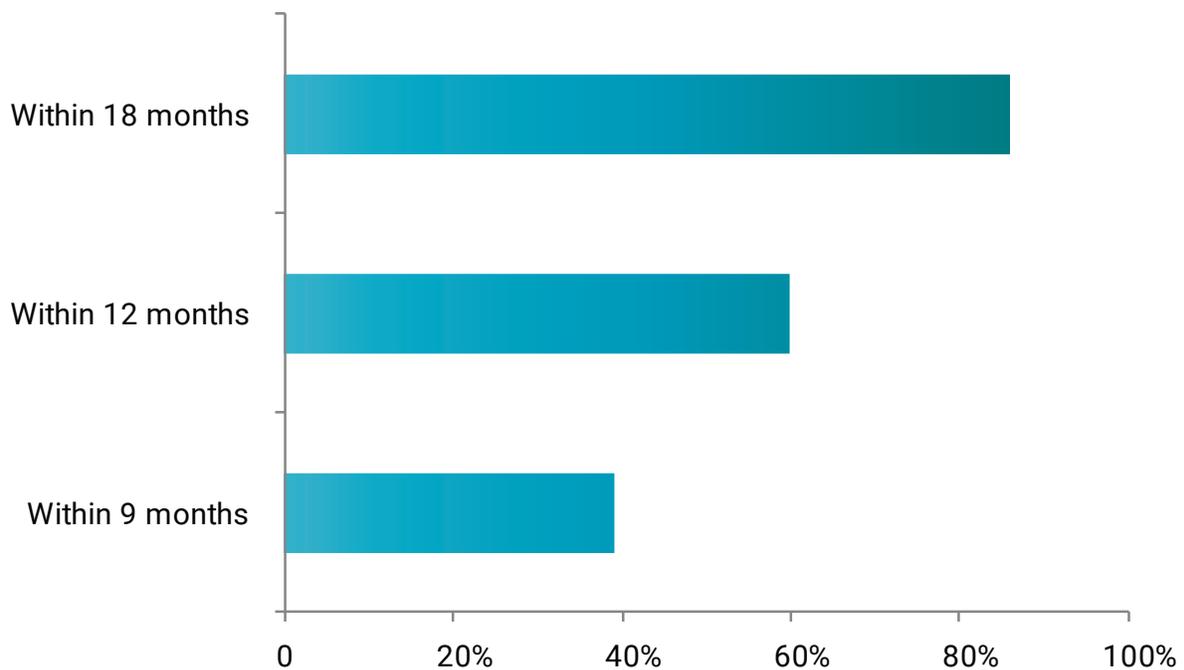
CHART 5: Issues in Dispositions

ISSUE TYPE	ISSUE PERCENTAGE
Loss of earnings	22%
New area of injury	10%
Initial entitlement	8%
Non-economic loss quantum	7%
Labour market re-entry	7%
Non-economic loss	6%
Second Injury and Enhancement Fund	6%
Health care benefits	5%
Ongoing entitlement	5%
Other	5%
Chronic pain	3%
Psychotraumatic disability	3%
Recurrence	3%
Permanent disability quantum (for accident dates prior to January 2, 1990)	2%
Earnings basis	1%
Early and safe return to work	1%
Future economic loss (for accident dates between January 2, 1990 and December 31, 1997)	1%
Hearing loss	1%
Occupational disease	1%
Stress	1%
Supplementary benefits	1%
Temporary total disability (for accident dates prior to January 1, 1998)	1%

Timeliness of Appeal Processing

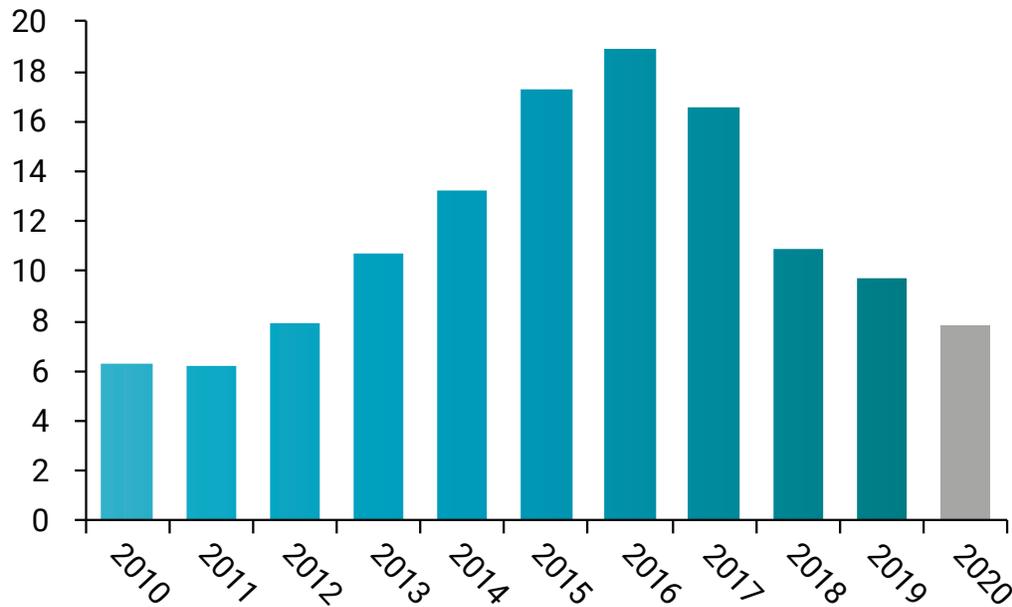
Chart 6 illustrates the WSIAT's performance in terms of the time frame for completing cases. The time frame begins when the appellant confirms readiness to proceed to a hearing and ends when the case is disposed of. In 2020 the percentage of appeals disposed of within 9 months was 39%, compared to 27% in 2019. The percentage of appeals disposed of within 12 months was 60%, compared to 48% in 2019. The percentage disposed of within 18 months was 86%, compared to 79% in 2019.

CHART 6: Percent Disposed of Within 9, 12 and 18 Months

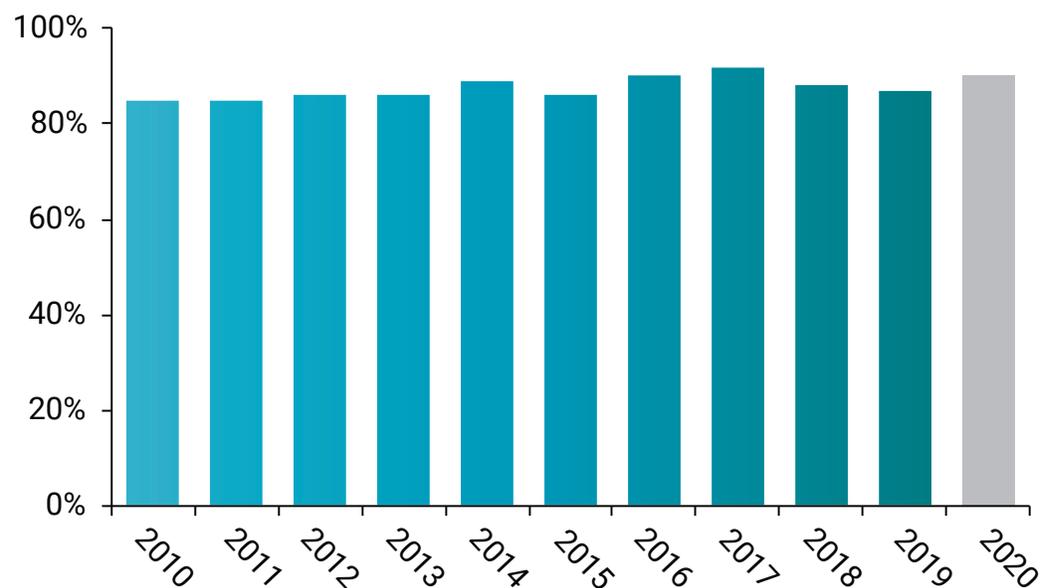


The WSIAT also measures the median interval of the first-offered hearing date. This interval is measured from the date on which cases are confirmed ready to proceed to the future hearing date first offered to the parties.

Chart 7 shows that in 2020, the WSIAT improved the time to first-offered hearing to 7.8 months, compared to 9.7 months in 2019.

CHART 7: Time to First-Offered Hearing (Months)

Section 127 of the WSIA requires the WSIAT to release decisions within 120 days of a hearing, or such longer time as the WSIAT may permit. As shown in Chart 8, in 2020 this target was achieved 90% of the time, compared to 87% in 2019.

CHART 8: Final Decisions (Percent Released within 120 Days)

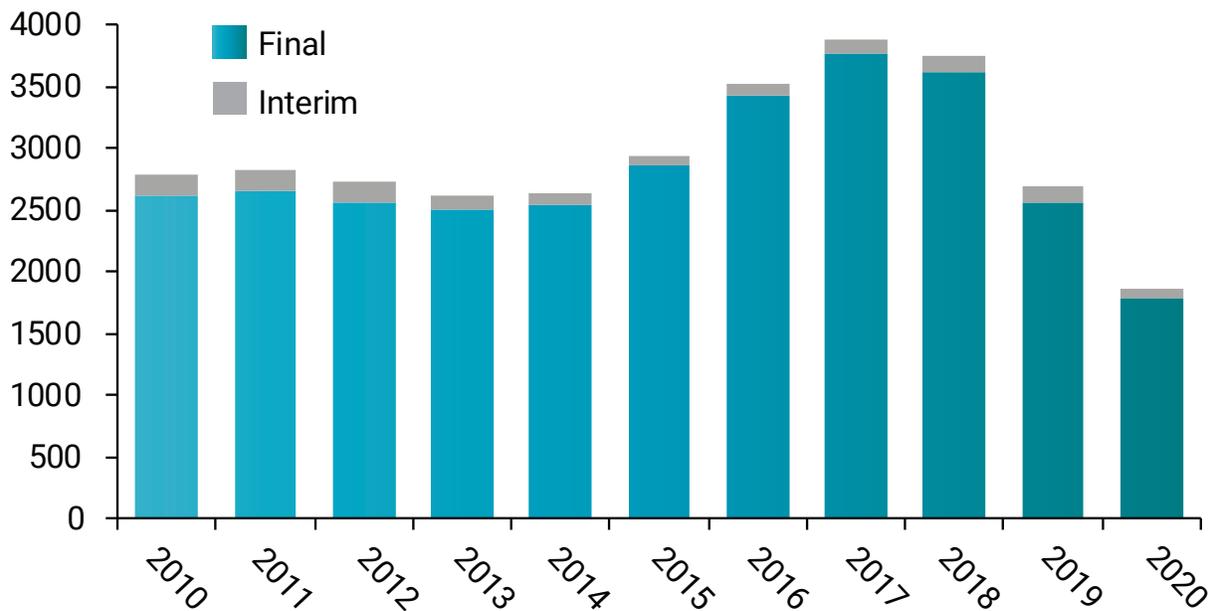
Hearing and Decision Activity

Since March 30, 2020, the vast majority of the WSIAT's employees and Order in Council appointees have been working remotely to support the Government of Ontario's efforts to stop the spread of COVID-19. All in-person hearings were suspended effective March 30, 2020, and alternative hearing methods were offered. In addition to written appeals, the WSIAT initially offered teleconference hearings starting in April 2020, and videoconference hearings starting in June 2020. The initial COVID-19-related service interruptions account for the lower 2020 decision production.

In 2020 the WSIAT conducted 1,745 hearings and issued a total of 1,864 decisions (1,786 final decisions and 78 interim decisions). In 2019, the WSIAT conducted 2,587 hearings and issued a total of 2,685 decisions (2,569 final decisions and 116 interim decisions).

Chart 9 depicts the WSIAT's decision production.

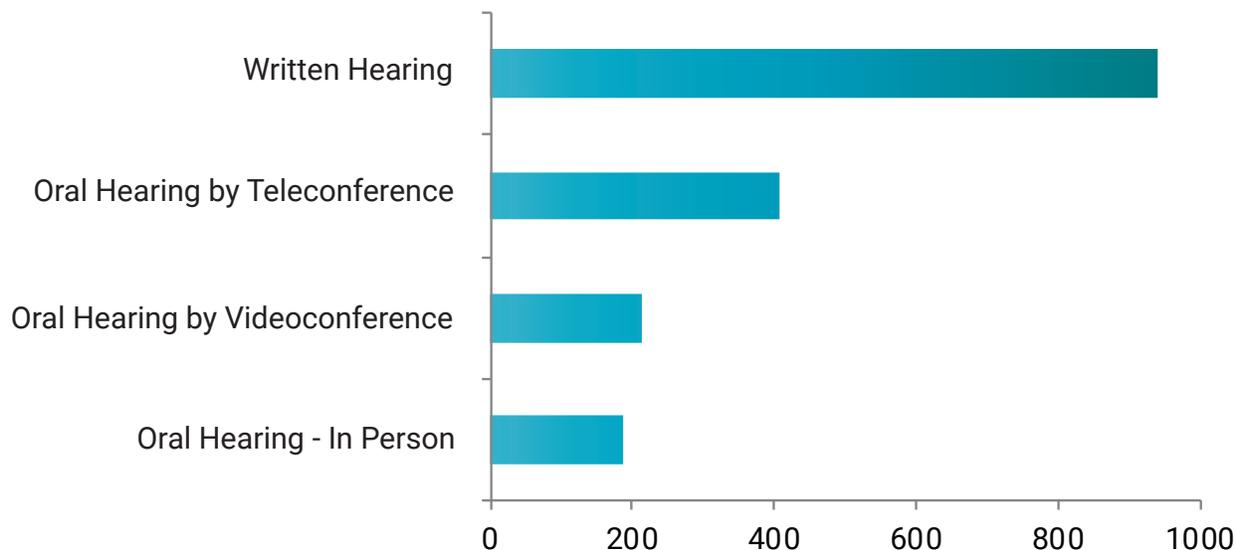
CHART 9: Decisions Trend



Hearing and Adjudication Types

Chart 10(A) shows the breakdown of hearings in 2020 by hearing type. There are two major hearing types: oral and written. Written hearings totalled 54% of appeal hearings and oral hearings totalled 46%.

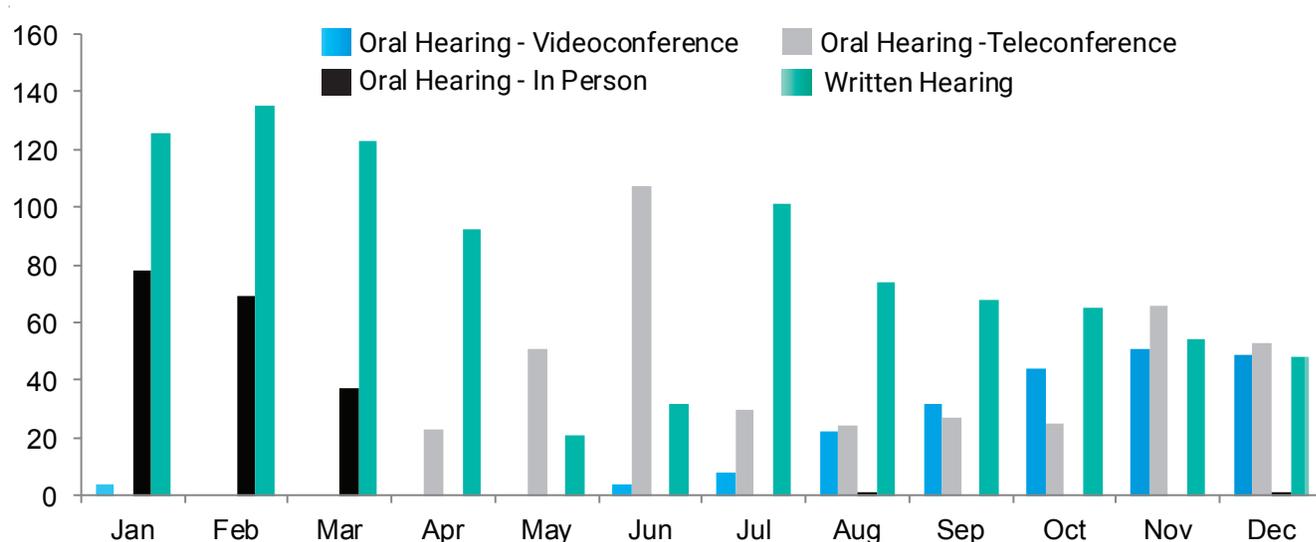
CHART 10(A): Hearing and Adjudication Types



Note: “Oral Hearing - In Person” refers to hearings held in Toronto or a regional hearings facility.

Chart 10(B) shows the breakdown of hearings by hearing type in each month of 2020. The black bars show that in-person hearings ceased by mid-March. The adoption and growth of hearings by videoconference was a unique challenge for the WSIAT and its stakeholders, requiring adaptation to new technology and hearing procedures.

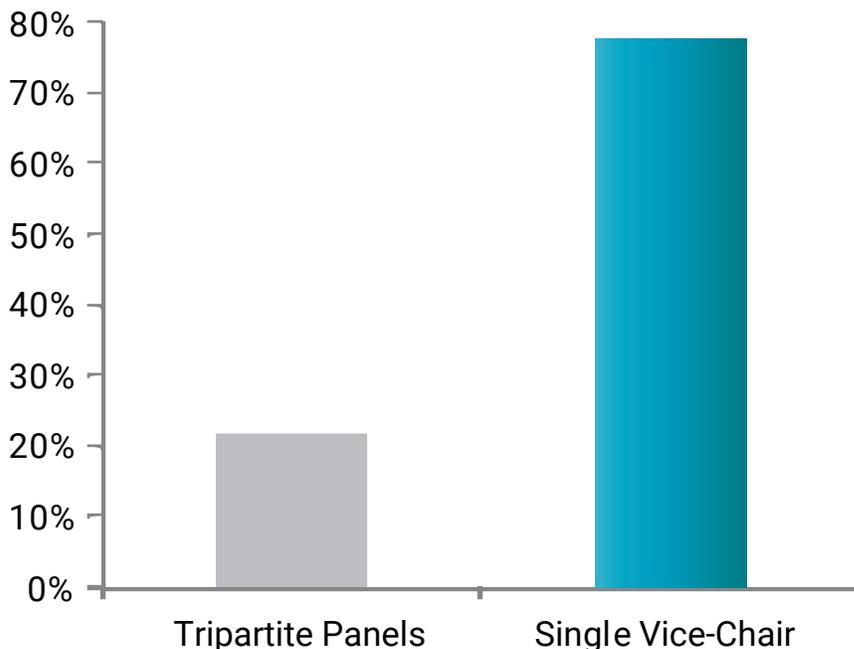
CHART 10(B): WSIAT Hearings by Month and Hearing Type



Subsection 174(2) of the WSIA provides that, subject to subsection 174(3), the Chair or Vice-Chair assigned by the Chair, sitting alone, shall hear and decide appeals and such other matters as are conferred upon the WSIAT. Subsection 174(3) sets out exceptions in which the Chair may appoint a Panel of three or five members to hear and decide an appeal or other matter conferred upon the WSIAT under the WSIA.

Chart 10(C) shows the adjudication type at hearing. In 2020, 75% of WSIAT hearings were heard by single Vice-Chairs, compared to 58% in 2019. In 2020, tripartite Panels heard 25% of WSIAT hearings, compared to 42% in 2019. There were no hearings by five-member Panels in 2020.

CHART 10(C): Adjudication Types



Representation Type at Hearings in 2020

Parties may retain professional representation for proceedings at the WSIAT, choose to represent themselves, or be represented by a friend or family member. Party representation type at hearings in 2020 is shown in Charts 11(A) and (B).

CHART 11(A): Worker Representation in Worker Appeals

REPRESENTATIVE TYPE	PERCENT OF TOTAL REPRESENTATION
Paralegal	37%
Lawyer/Legal	27%
OWA	14%
Self-represented	12%
Union	9%
Others	1%

CHART 11(B): Employer Representation in Employer Appeals

REPRESENTATIVE TYPE	PERCENT OF TOTAL REPRESENTATION
Paralegal	54%
Lawyer	34%
Firm Personnel	9%
OEA	3%

Note: OWA refers to the Office of the Worker Advisor. OEA refers to the Office of the Employer Advisor.

Post-decision Case Processing – Reconsideration Requests

The WSIAT processing of reconsideration requests in 2020 are shown in Chart 12. Reconsideration processing is excluded from all other charts and statistical references in the Caseload Processing section.

WSIAT decisions are final. However, the WSIAT has the statutory discretion to reconsider a decision if there is a good legal reason to do so. In 2020 the WSIAT received 131 reconsideration requests, compared to 212 in 2019. The WSIAT issued 214 reconsideration decisions in 2020, compared to 210 in 2019.

CHART 12: Reconsideration Processing Activity in 2020

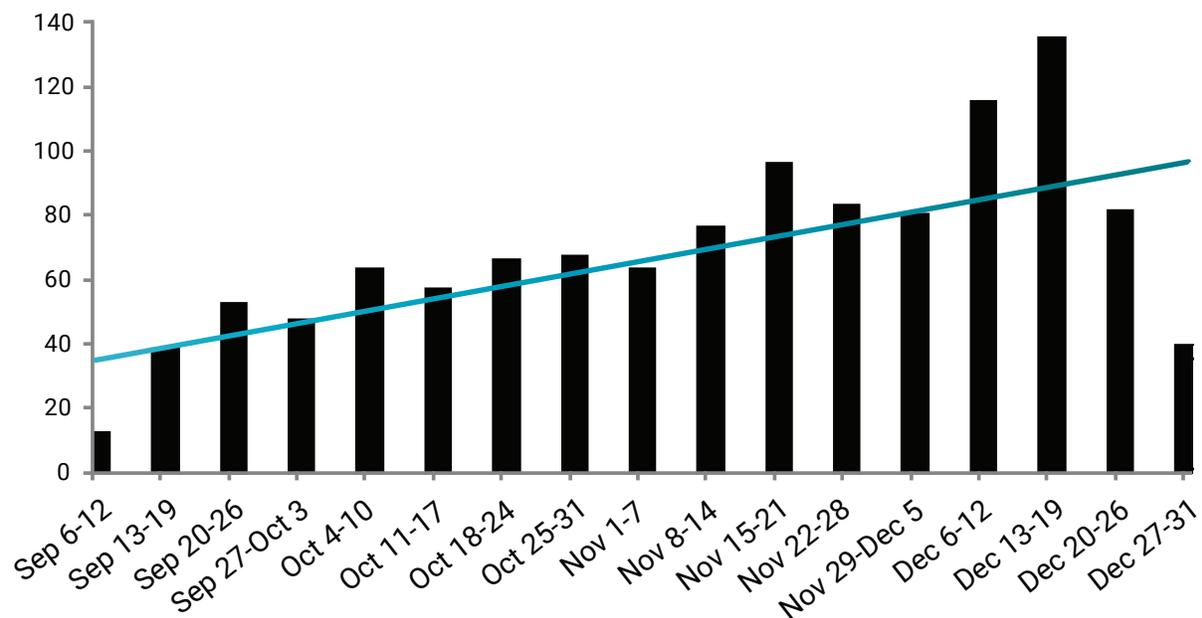
RECONSIDERATION REQUESTS	PROCESS COUNT
Requests Received	131
Decisions Issued	214
Requests Pending Resolution	89

Electronic Filing of Submissions

The WSIAT launched its electronic submissions filing (e-filing) application on September 8, 2020 to allow stakeholders to e-file forms and other documents relating to their appeal or application. The e-filing portal is accessed from the WSIAT's public website.

Chart 13 shows the weekly number of e-filing submissions from September 8 to December 31, 2020. E-filing submissions increased considerably during the last 17 weeks of 2020 as stakeholders became more familiar with the new service.

CHART 13: E-Filing Submissions Received Weekly



FINANCIAL MATTERS

A Statement of Expenditures and Variances for the year ended December 31, 2020 (Chart 14) is shown below.

CHART 14: Statement of Expenditures and Variances for the Year Ending December 31, 2020 (in \$000s)

EXPENSE TYPE	2020	2020	VARIANCE	
	Budget	Actuals	\$	%
OPERATING EXPENSES				
Salaries and Wages	14,676	14,428	248	1.7
Employee Benefits	3,392	3,168	226	6.6
OTHER DIRECT OPERATING EXPENSES				
Transportation and Communication	977	449	528	54.0
Services	7,693	5,736	1,957	25.4
Supplies and Equipment	577	849	(272)	(47.1)
Total Other Direct Operating Expenditures	9,247	7,034	2,212	23.9
Total - WSIAT	27,315	24,630	2,685	9.8
Services - WSIB	530	557	(27)	(5.1)
Interest Revenue	(12)	(7)	(5)	(40.7)
TOTAL OPERATING EXPENSES	27,833	25,180	2,653	9.5
ONE-TIME EXPENSES				
Severance Payment	125	303	(178)	(142.4)
TOTAL EXPENDITURES	27,958	25,483	2,475	8.9

Note:

The above 2020 actuals are presented on the same basis as the approved budget and differ from the year-end audited Financial Statements presentation (see Note 2 to the financial statements).

The Difference of (\$92) is comprised of the following:

	Amount	Total
CAPITAL FUND		
Amortization	445	-
Fixed Assets acquired	(214)	231
OPERATING FUND		
Accrued Severance, Vacation Benefits, & HCSA	(72)	-
Prepaid Expenses	(67)	(139)
Difference	-	<u>92</u>

The accounting firm of Deloitte LLP has completed a financial audit on the WSIAT's financial statements for the year ended December 31, 2020. The Independent Auditor's Report is included as Appendix B.

APPENDIX A

Order in Council Appointees, Senior Staff and Medical Counsellors

Order in Council Appointees

This is a list of individuals whose Order in Council appointments were active during 2020 and their annual remuneration.¹

Full-time	Initial Appointment	Term End Date	Annual Remuneration ²
Chair			
McCutcheon, Rosemarie	August 16, 2019	January 8, 2022	\$174,088.00
Vice-Chairs			
Baker, Andrew	June 28, 2006	December 31, 2023	\$156,043.00
Basa, Rosemary	February 18, 2016	February 7, 2020	\$ 20,935.00
Crystal, Melvin	May 3, 2000	May 2, 2022	\$156,043.00
Dee, Garth	June 17, 2009	February 18, 2022	\$156,043.00
Dimovski, Jim	November 19, 2014	February 23, 2021	\$146,310.00
Huras, Christina	February 10, 2016	August 28, 2021	\$136,578.00
lima, Katherine	January 5, 2015	February 20, 2023	\$144,476.00
Jepson, Kenneth	December 10, 2014	August 28, 2021	\$136,578.00
Kalvin, Bernard	October 20, 2004	May 31, 2021	\$153,800.00
Keil, Martha	February 16, 1994	February 17, 2022	\$156,043.00
Kosny, Agnieszka	June 11, 2020	June 10, 2022	\$127,150.00 ³
Patterson, Angus	June 13, 2007	March 31, 2021	\$156,043.00
Perryman, Natalie	January 5, 2015	February 7, 2023	\$140,193.00
Petrykowski, Luke	October 3, 2012	December 31, 2021	\$146,310.00
Ryan, Sean	May 28, 2020	May 27, 2022	\$ 85,450.00
Shime, Sandra	July 15, 2009	December 13, 2025	\$146,310.00
Smith, Joanna	August 28, 2013	December 31, 2021	\$146,310.00
Woodrow, Rebecca	June 22, 2016	February 20, 2020	\$ 25,645.00
Members representative of employers			
Christie, Mary	May 2, 2001	December 31, 2020	\$126,341.00
Sacco, Carmine	February 21, 2018	February 20, 2023	\$116,990.00
Thomson, David	May 18, 2017	May 17, 2022	\$118,473.00

¹ List also includes individuals completing post-appointment responsibilities pursuant to section 175 of the WSIA.

² Not including expenses.

³ Annual remuneration reflects both Vice-Chair and Member appointment during 2020.

Full-time	Initial Appointment	Term End Date	Annual Remuneration
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Members representative of workers

Ferrari, Mary	July 15, 2005	December 31, 2021	\$118,473.00
Hoskin, Kelly	June 13, 2007	September 30, 2023	\$120,654.00
Kosny, Agnieszka	January 8, 2018	June 11, 2020	\$127,150.00 ³

Part-time	Initial Appointment	Term End Date	Annual Remuneration
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Vice-Chairs

Allen, Paul	February 24, 2016	February 23, 2021	\$141,184.00
Bayefsky, Eban	July 30, 2020	July 29, 2022	\$ 16,503.00
Brossard, Liane	February 21, 2018	February 20, 2020	\$ 2,167.00
Cappell, Barbara	February 24, 2016	February 23, 2021	\$ 48,909.00
Carlan, Nicolette	August 17, 2017	August 16, 2019	\$ 11,000.00
Cooper, Keith	December 16, 2009	October 8, 2018	\$ 4,728.00
Darvish, Sherry	July 30, 2020	July 29, 2022	\$ 19,605.00
Evans, Katharine	October 4, 2017	October 3, 2022	\$ 88,284.00
Ferguson, Nancy	July 30, 2020	July 29, 2022	\$ 14,483.00
Frenschkowski, JoAnne	March 4, 2013	March 3, 2023	\$ 38,074.00
Gehrke, Linda	November 4, 2015	November 3, 2025	\$ 85,305.00
Hale, Donald	January 15, 2016	January 14, 2021	\$ 25,368.00
Hoare, Rhea	October 26, 2016	October 30, 2021	\$ 99,254.00
Hodis, Sonja	July 15, 2009	August 12, 2022	\$ 56,183.00
Horne, Ronald	May 10, 2017	May 9, 2022	\$ 46,299.00
Illion, Brian	July 11, 2017	July 10, 2020	\$ 4,236.00
Jacques, Karen	February 15, 2017	February 20, 2022	\$ 42,472.00
Kosmidis, Elizabeth	June 17, 2015	June 16, 2025	\$ 73,306.00
MacAdam, Colin	May 4, 2005	December 31, 2019	\$ 1,576.00
Mackenzie, Ian	October 9, 2013	October 30, 2023	\$ 72,697.00
Marafioti, Victor	March 11, 1987	February 20, 2021	\$ 76,785.00
McBey, Donald	June 22, 2016	December 31, 2019	\$ 37,487.00
McCaffrey, Grant	July 22, 2015	July 21, 2022	\$ 56,912.00
McGarvey, Matthew	July 22, 2015	July 22, 2020	\$ 9,714.00
McLoughlin, Michael	August 29, 2019	August 28, 2021	\$ 42,999.00
Mitchinson, Tom	November 10, 2005	November 9, 2023	\$ 70,875.00

Part-time	Initial Appointment	Term End Date	Annual Remuneration
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Vice-Chairs (continued)

Morrow, Bernard	July 30, 2020	July 29, 2022	\$ 18,423.00
Nairn, Rob	April 29, 1999	December 31, 2020	\$184,425.00
Onen, Zeynep	November 4, 2015	November 3, 2025	\$ 77,522.00
Patel, Vandana	December 10, 2020	December 9, 2022	\$ 0.00
Peckover, Susan	October 20, 2004	October 19, 2020	\$ 41,571.00
Pollock, Bruce	February 15, 2017	February 20, 2022	\$ 39,965.00
Ramsay, Christopher	May 18, 2016	December 31, 2021	\$165,090.00
Revington, Dan	January 8, 2018	January 7, 2023	\$ 41,768.00
Salisbury, Robert	February 2, 2017	February 20, 2022	\$ 31,031.00
Samaras, Constantine	November 1, 2017	October 31, 2020	\$ 2,069.00
Smith, Eleanor	February 1, 2000	October 30, 2023	\$ 64,447.00
Somerville, Ann	October 4, 2017	October 3, 2022	\$ 53,228.00
Sutton, Wendy	May 27, 2009	July 8, 2020	\$ 32,642.00
Wales, Shirley	February 15, 2017	February 20, 2020	\$ 0.00
Wong, Anita	July 30, 2020	July 29, 2022	\$ 13,400.00
Zehr, Chantelle	October 4, 2017	October 3, 2022	\$ 95,998.00
Zigler, Robert	March 12, 2018	March 11, 2020	\$ 7,092.00

Members representative of employers

Blogg, John	November 14, 2012	June 15, 2020	\$ 8,437.00
Boshcoff, Kenneth	January 8, 2018	January 7, 2020	\$ 11,358.00
Burkett, Gary	February 2, 2017	February 20, 2022	\$ 55,822.00
Davis, Bill	May 27, 2009	August 12, 2021	\$ 29,417.00
Falcone, Mena	October 21, 2015	October 20, 2023	\$ 36,647.00
Greenside, Patricia	January 8, 2018	January 7, 2023	\$ 52,672.00
Lipton, Mary	February 24, 2016	February 23, 2021	\$ 1,711.00
Ouellette, Richard	April 26, 2017	April 25, 2022	\$ 39,161.00
Phillips, Victor	November 15, 2006	November 14, 2019	\$ 826.00
Provato, Joseph	December 10, 2020	December 9, 2022	\$ 0.00
Sahay, Sonya	August 29, 2019	August 28, 2021	\$ 30,086.00
Soden, Kristen	October 18, 2017	October 17, 2022	\$ 32,076.00
Tracey, Elaine	December 7, 2005	December 6, 2019	\$ 2,242.00
Trudeau, Marcel	April 16, 2008	December 31, 2023	\$ 18,378.00
Watters, Michelle	March 7, 2018	March 6, 2020	\$ 3,224.00

Part-time	Initial Appointment	Term End Date	Annual Remuneration
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Members representative of workers

Agnidis, Zoe	February 21, 2018	February 20, 2023	\$ 60,625.00
Broadbent, Dave	April 18, 2001	April 17, 2021	\$ 23,909.00
Carlino, Gerry	October 3, 2012	October 2, 2022	\$ 22,906.00
Crocker, Jim	August 1, 1991	October 31, 2019	\$ 8,787.00
O'Connor, Sean	January 8, 2018	January 7, 2020	\$ 19,306.00
Pernal, Nicholas	January 8, 2018	January 7, 2020	\$ 0.00
Roth, Stephen	February 24, 2016	February 23, 2021	\$ 57,108.00
Salama, Claudine	October 3, 2012	October 2, 2022	\$ 57,710.00
Signoroni, Antonio	September 29, 2010	January 6, 2021	\$ 41,727.00
Thompson, James	April 5, 2017	April 4, 2022	\$ 41,757.00
Tzaferis, Mary	December 7, 2016	December 6, 2021	\$ 52,922.00

Senior Staff

Michelle Alton.....	Tribunal General Counsel
Sarah Schumacher.....	Counsel to the Chair ⁴
Nicole Bisson	Director, Appeal Services
Lynn Telalidis.....	Director, Human Resources and Administration
Justin Huang	Director, Information and Technology Services ⁵
Wesley Lee.....	Corporate Controller
Janet Oulton.....	Manager, Scheduling Administration
Slavica Todorovic.....	Lead, Strategic Initiatives
Guylaine Mageau	Senior Manager, Executive Services

Medical Counsellors

Medical Counsellors are a group of highly qualified medical specialists who serve as consultants to the WSIAT, working closely with the Medical Liaison Office. Currently there are five Medical Counsellors:

Dr. John Duff	General Surgery (Chair of the Medical Counsellors)
Dr. Paul Cooper	Neurology
Dr. Marvin Tile	Orthopaedic Surgery
Dr. Emmanuel Persad	Psychiatry
Dr. Anthony Weinberg	Internal Medicine

⁴ Carole Prest left the position of Counsel to the Chair in November 2020.

⁵ David Bestvater left the position of Director, Information and Technology Services in September 2020.

APPENDIX B



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Independent Auditor's Report

To the Chair of the
Workplace Safety and Insurance Appeals Tribunal

Opinion

We have audited the financial statements of Workplace Safety and Insurance Appeals Tribunal ("WSIAT"), which comprise the statement of financial position as at December 31, 2020, and the statements of operations, changes in fund balances, and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies (collectively referred to as the "financial statements").

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of WSIAT as at December 31, 2020, and the results of its operations, changes in fund balances, and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards ("Canadian GAAS"). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of WSIAT in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing WSIAT's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate WSIAT or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing WSIAT's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian GAAS will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of WSIAT's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on WSIAT's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause WSIAT to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

"Original signed by Deloitte"

Chartered Professional Accountants
Licensed Public Accountants
March 10, 2021

WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL

Statement of Financial Position

As at December 31, 2020

ACCOUNT DESCRIPTION	2020	2019
ASSETS		
CURRENT		
Cash	\$ 2,294,289	\$ 2,675,053
Due from Workplace Safety and Insurance Board	1,535,953	643,607
Prepaid expenses and advances	534,403	468,106
Recoverable expenses (Note 3)	312,244	212,561
Total Current Assets	4,676,889	3,999,327
CAPITAL ASSETS (Note 4)	439,247	670,576
Total Current and Capital Assets	\$ 5,116,136	\$ 4,669,903
LIABILITIES		
CURRENT		
Accounts payable and accrued liabilities	\$ 2,343,086	\$ 1,732,798
Accrued severance benefits and vacation credits	2,513,631	2,585,622
Operating advance from Workplace Safety and Insurance Board (Note 5)	1,800,000	1,800,000
Total Current Liabilities	6,656,717	6,118,420
FUND BALANCES		
OPERATING FUND (Note 6)	(1,979,828)	(2,119,093)
CAPITAL FUND	439,247	670,576
Total Fund Balances	(1,540,581)	(1,448,517)
Total Liabilities and Fund Balances	\$ 5,116,136	\$ 4,669,903

APPROVED ON BEHALF OF WORKPLACE
SAFETY AND INSURANCE APPEALS TRIBUNAL

..... Chair

WORKPLACE SAFETY AND INSURANCE**APPEALS TRIBUNAL****Statement of Operations**

Year ended December 31, 2020

ACCOUNT DESCRIPTION	2020	2019
OPERATING EXPENSES		
Salaries and wages	\$ 14,428,153	\$ 13,609,832
Employee benefits (Note 7)	3,398,670	3,023,053
Transportation and communication	449,468	831,448
Services and supplies	6,304,095	7,590,572
Amortization	444,968	441,728
Sub-total Operating Expense	25,025,354	25,496,633
Services - Workplace Safety and Insurance Board ("WSIB") (Note 8)	557,252	554,614
TOTAL OPERATING EXPENSES	25,582,606	26,051,247
BANK INTEREST INCOME	(7,121)	(41,672)
NET OPERATING EXPENSES	25,575,485	26,009,575
FUNDS RECEIVED AND RECEIVABLE FROM WSIB	(25,483,421)	(25,946,776)
ANNUAL SURPLUS	\$ 92,064	\$ 62,799

**WORKPLACE SAFETY AND INSURANCE
APPEALS TRIBUNAL**

Statement of Changes in Fund Balances

Year ended December 31, 2020

CHANGES IN FUND BALANCES	Capital	Operating	Total
BALANCE - January 1, 2019	947,129	(2,332,847)	(1,385,718)
Additions to capital assets	165,175	-	165,175
Amortization of capital assets	(441,728)	-	(441,728)
Severance benefits, vacation credits, and Health Care Spending Account (Note a)	-	174,877	174,877
Prepaid expenses (Note b)	-	38,877	38,877
Annual Surplus	(276,553)	213,754	(62,799)
BALANCE - DECEMBER 31, 2019	670,576	(2,119,093)	(1,448,517)
Additions to capital assets	213,639	-	213,639
Amortization of capital assets	(444,968)	-	(444,968)
Severance benefits, vacation credits, and Health Care Spending Account (Note a)	-	71,991	71,991
Prepaid expenses (Note b)	-	67,274	67,274
Annual Surplus	(231,329)	139,265	(92,064)
BALANCE - DECEMBER 31, 2020	439,247	(1,979,828)	(1,540,581)

Note a) Severance benefits, vacation credits, and health care spending are not funded by WSIB until they are paid.

Note b) Prepaid expenses are funded by WSIB when paid and not when expensed.

**WORKPLACE SAFETY AND INSURANCE
APPEALS TRIBUNAL
Statement of Cash Flows
Year ended December 31, 2020**

CASH FLOWS	2020	2019
NET (OUTFLOW) INFLOW OF CASH RELATED TO THE FOLLOWING ACTIVITIES		
OPERATING		
Funding revenue received from Workplace Safety and Insurance Board	\$ 24,591,075	\$ 24,567,418
Cash receipts for recoverable expenses	696,370	936,190
Bank interest received	7,121	41,672
Expenses, recoverable expenses net of amortization of \$444,968 (2019 - \$441,728)	(25,461,691)	(26,998,860)
Sub-total (Decrease) Increase in Cash	(167,125)	(1,453,580)
CAPITAL		
Acquisition of capital assets	(213,639)	(165,175)
NET DECREASE IN CASH	(380,764)	(1,618,755)
CASH, BEGINNING OF YEAR	2,675,053	4,293,808
CASH, END OF YEAR	\$ 2,294,289	\$ 2,675,053

WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL

Notes to the Financial Statements

December 31, 2020

1. GENERAL

Workplace Safety and Insurance Appeals Tribunal (the “Tribunal”) was originally created by the Workers’ Compensation Amendment Act S.O. 1984, Chapter 58 - Section 32, which came into force on October 1, 1985. The Workplace Safety and Insurance Act (the “Act”) replaced the Workers’ Compensation Act in 1997 and came into force January 1, 1998. The Workplace Safety and Insurance Board (“WSIB”), (formerly, Workers’ Compensation Board) is required to fund the cost of the Tribunal from the Insurance Fund. These reimbursements and funding amounts are determined and approved by the Ontario Minister of Labour.

The purpose of the Tribunal is to hear, determine and dispose of in a fair, impartial and independent manner, appeals by workers and employers in connection with decisions, orders or rulings of the WSIB and any matters or issues expressly conferred upon the Tribunal by the Act.

2. SIGNIFICANT ACCOUNTING POLICIES

The following summarizes the significant accounting policies used in preparing the accompanying financial statements:

Basis of presentation

The financial statements have been prepared in accordance with Canadian accounting standards for government not-for-profit organizations, including Sections PS 4200 to PS 4270 “PSAS-NPO” of the CPA Canada Public Sector Accounting Handbook using the restricted fund method of reporting revenue.

Revenue recognition

WSIB funds expenses as incurred, except for severance benefits and vacation credits, which are funded when paid, and prepaid expenses which are funded when paid and not when expensed.

Accounting estimates

The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts in the financial statements and in the accompanying notes. Due to the inherent uncertainty in making estimates, actual results could differ from these estimates. Accounts requiring estimates and assumptions are included in accrued severance benefits and vacation credits.

Capital assets

Capital assets are recorded at cost and are amortized on a straight-line basis over their estimated useful life of 4 years.

Funding for capital assets provided by the WSIB is reported in the Capital Fund. The Fund is reduced each year by an amount equal to the amortization of capital assets and increased by the additions to capital assets.

WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL

Notes to the Financial Statements

December 31, 2020

2. SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Employee benefits

(a) Pension benefits

The Tribunal provides pension benefits for all of its permanent employees (and to non-permanent employees who elect to participate) through the Public Service Pension Plan (“PSPP”) and the Ontario Public Service Employees’ Union Pension Fund (“OPSEU Pension Trust”) which are both multi-employer plans established by the Province of Ontario. The plans are defined-benefit plans, which specify the amount of retirement benefit to be received by employees based on their length of service and rates of pay.

(b) Severance benefits

Severance benefits are recognized and accrued over the years in which employees earn the benefits. The severance benefit is recorded once an employee has worked for the Tribunal for a minimum term (of five years). The maximum amount payable to an employee shall not exceed one-half of the annual full-time salary. A unionized employee who retires or voluntarily resigns is entitled to severance benefits for service accrued up to June 30, 2010. A non-union employee who retires, and is eligible for a PSPP is entitled to severance benefits for service accrued up to December 31, 2015. A non-union employee who voluntarily resigns is only entitled to severance benefits for service accrued up to December 31, 2011.

(c) Vacation credits

Vacation entitlements are accrued in the year when vacation credits are earned. Employees may accumulate vacation credits to a maximum of one year’s vacation entitlement at December 31 of each year. Senior Management Group is also eligible to time bank up to ten vacation days per year (maximum of one hundred and twenty-five days). Employees are paid for any earned and unused vacation credits at the date they cease to be an employee.

(d) Non-pension future benefits

The Tribunal also provides for dental, basic life insurance, supplementary health and hospital benefits to retired employees through a self-insured, unfunded defined benefit plan established by the Province of Ontario.

The Tribunal does not accrue for non-pension future benefits liability since the information is not readily available from the Province of Ontario.

(e) Health Care Spending Account (“HCSA”)

Consistent with the Province of Ontario’s employee benefit plan, the Tribunal provides an annual health care spending component for every eligible employee. Any unused amounts in the current year can be carried forward for up to one year.

**WORKPLACE SAFETY AND INSURANCE
APPEALS TRIBUNAL**
Notes to the Financial Statements
December 31, 2020

3. RECOVERABLE EXPENSES

Recoverable expenses consist of amounts recoverable for shared services, secondments and other miscellaneous receivables.

Recoverable Expenses From	2020	2019
Shared Services		
Ontario Labour Relations Board	\$ 188,297	\$ 95,414
Pay Equity Hearings Tribunal	10,586	4,582
Secondments		
Office of the Worker Adviser	-	14,899
Others		
Canada Revenue Agency HST rebate receivable	99,218	83,727
Employee amounts receivable	-	1,599
Miscellaneous	14,143	12,340
Total	\$ 312,244	\$ 212,561

4. CAPITAL ASSETS

Type of Capital Assets	Cost	2020		2019
		Accumulated Amortization	Net Book Value	Net Book Value
Leasehold Improvements	\$ 4,129,228	\$ 3,917,161	\$ 212,067	\$ 406,049
Furniture and Equipment	448,553	411,144	37,409	97,540
Computer Equipment and Software	1,030,724	840,953	189,771	166,987
Total	\$ 5,608,505	\$ 5,169,258	\$ 439,247	\$ 670,576

5. OPERATING ADVANCE FROM WSIB

The operating advance is interest-free with no specific terms of repayment.

6. OPERATING FUND

The Operating Fund deficit of \$1,979,828 as of December 31, 2020 (2019 - \$2,119,093) represents future obligations to employees for severance, vacation credits and health care spending account credits, less prepaid expenses. Funding for these future obligations will be provided by WSIB in the year the actual payment is made.

WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL

Notes to the Financial Statements

December 31, 2020

7. EMPLOYEE BENEFITS OBLIGATIONS

a) Pension plan costs

Contributions by the Tribunal on account of pension costs amounted to \$1,278,561 (2019 - \$1,209,260) and are included in employee benefits in the Statement of Operations.

b) Severance benefits

Severance benefits are recognized and accrued over the years in which employees earn the benefits. The net severance benefits accrued in 2020 amounted to a decrease of \$308,418 (2019 – \$154,914) over the prior year amount and is included in employee benefits in the Statement of Operations.

c) Vacation credit entitlement

Vacation entitlements are accrued in the year when vacation credits are earned. The net vacation credits accrued in 2020 amounted to an increase in the accrual of \$228,627 (2019 - \$24,563 decrease) over the prior year amount and is included in employee benefits in the Statement of Operations.

d) Non-pension future benefits

The Tribunal does not accrue for non-pension future benefits, since the information is not readily available from the Province of Ontario.

e) Health Care Spending Account (“HCSA”)

Eligible employees are entitled to an annual health care spending account as part of their health benefits. Unused amounts can be carried forward for up to one year. The net HCSA accrued in 2020 amounted to an increase of \$7,800 (2019 - \$4,600 increase) over the prior year and is included in employee benefits in the Statement of Operations.

8. SERVICES – WSIB

The expense represents administrative costs for processing claim files of the WSIB, which are under appeal at the Tribunal, pursuant to section 125 (4) of The Workplace Safety and Insurance Act, 1997.

WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL

Notes to the Financial Statements

December 31, 2020

9. COMMITMENTS

The Tribunal has commitments under several leases and maintenance contracts relating to computer and office equipment, software license fees and workplace learning solutions service contracts with remaining terms from 1-4 years. The minimum payments under these commitments are as follows:

<u>Year</u>	<u>Minimum Payment</u>
2021	\$ 433,792
2022	23,075
2023	6,734
2024	3,791
Minimum payments	\$ 467,392

The Tribunal is also committed to minimum lease payments for premises, including building operating costs. The minimum lease payments for the next five years are as follows:

<u>Year</u>	<u>Minimum Payment</u>
2021	\$ 1,748,538
2022	1,774,767
2023	1,801,388
2024	1,828,409
2025	1,855,835
Minimum operating lease payments	\$ 9,008,937

The current lease was renewed for ten years commencing November 1, 2015 with two further options to extend the lease for 5 years each.