



Workplace Safety and Insurance Appeals Tribunal (WSIAT) Interim Guideline on the Gradual Resumption of In-Person Hearings – Phase 2

The Workplace Safety and Insurance Appeals Tribunal (the “Tribunal” or “WSIAT”) is pleased to announce that, in line with the lifting of most public health restrictions, the Tribunal will enter phase two of its gradual resumption of in-person hearings in the autumn of 2022. During phase two, the Tribunal will:

- increase the availability of in-person hearings, and
- the default hearing method will change from teleconference to videoconference.

During the COVID-19 pandemic, the Tribunal adopted teleconference as the default hearing method, and the vast majority of Tribunal hearings were conducted through virtual hearing methods. Only a very limited number of employees worked at the Tribunal’s premises during the COVID-19 pandemic. Currently, the Tribunal’s employees are gradually returning to the office.

In the above context, and in response to the easing of public health restrictions, the Tribunal gathered feedback from stakeholders and adjudicators on post-pandemic hearing formats. Many stakeholders expressed an interest in having a choice of hearing format, with greater availability of in-person hearings.

This Interim Guideline applies to appeals in the oral hearing stream. Written appeals continue to be governed by the WSIAT [Practice Direction: Written Appeals](#).

Effective Autumn 2022:

- The default hearing method is videoconference.
- Parties may request an in-person hearing or a teleconference, as an alternative to a videoconference.
- There will be a gradual increase in the availability of in-person hearings.
- The availability of in-person hearings will be determined by the Tribunal, in its sole discretion, with regard to the factors set out below.

During this transitional period, parties should be aware that there may be longer wait times for in-person hearing dates, due to staffing needs or other logistical or resource needs to support in-person hearings. Regional hearings may also be subject to longer wait times due to availability of suitable regional hearing rooms and related resource needs.

The Tribunal’s decision regarding the appropriate hearing format will be based on the needs of the parties, not the needs of the representatives. The Tribunal’s expectations for representatives include an expectation of a level of reasonable technological competency (see [Worsoff v. MTCC 1168, 2021 ONSC 6493](#) at para 32).

Factors that may indicate an in-person hearing is appropriate:

The criteria that the Tribunal will consider when determining whether an in-person hearing is required or appropriate have been expanded.

The factors that may be considered by the Tribunal in determining whether an in-person hearing is appropriate or necessary include but are not limited to the following (however the presence of one or more of these factors does not necessarily mean that an in-person hearing will be granted by the Tribunal):

1. Whether the hearing will be able to proceed in-person in compliance with all applicable health and safety guidelines and requirements related to COVID-19 or otherwise.
2. Whether a party is unable to participate in a videoconference hearing due to technology barriers, that cannot be addressed through the WSIAT [Guidelines for Teleconference and Videoconference Hearing Expenses](#) or other reasonable means.
3. Whether there is a request for an accommodation for a *Human Rights Code* related need that cannot be met through a videoconference format.
4. Whether a party is unable to participate in a videoconference hearing due to health issues.
5. Whether there is a self-represented party with unique needs (including the ability to access and use technology, and/or the need for support to use technology).
6. Whether there is a suitable hearing room available in the location where the in-person hearing would take place.
7. Whether, due to the nature or complexity of the issues or the evidence, an in-person hearing would be more appropriate.
8. Whether the in-person hearing will be able to proceed in accordance with the principles of natural justice and in a fair manner.
9. Any other relevant and valid reasons why a remote electronic hearing might not be appropriate, including any personal circumstances of a party or participant.

Procedure for requesting an in-person hearing:

Parties are encouraged to raise any request for an in-person hearing, or raise any concerns with a hearing proceeding by videoconference, as early as possible. Whenever possible, the request should be made in writing and sent to the Tribunal as set out below. Parties should also ensure that other participating parties are copied on these communications and if possible, the position of the other parties with respect to the hearing format should be canvassed and confirmed in the written communication.

It is important that these communications include all necessary information and be as specific as possible.

The manner in which these requests for an in-person hearing will be addressed will depend on when the concerns are raised:

- Requests regarding the potential hearing format that are raised **before** a matter is scheduled will be addressed by the Vice-Chair Registrar. The Vice-Chair Registrar will make a decision about the hearing format, which will be made part of the record.
- Requests regarding the hearing format that are raised **after** a matter has been scheduled will be addressed by the Manager, Scheduling Administration and will also be noted on the record. In some cases, the Manager, Scheduling Administration may refer the objection to the Vice-Chair Registrar or to the assigned Vice-Chair or Panel for direction.
- Parties who continue to have concerns about the hearing format may raise an objection or request with the assigned Vice-Chair or Panel at the hearing. **However, parties and representatives should be prepared to proceed on the scheduled hearing date.**

All hearing participants are requested to not attend an in-person hearing if they are experiencing any symptoms of illness, including symptoms of COVID-19. If a hearing participant becomes unwell while at the WSIAT's offices they will be asked to:

- Self-isolate and leave the building immediately, if possible.
- Use the Ontario Self-Assessment Tool, and/or contact Telehealth, or their health care provider, or their local public health unit to seek guidance and testing, if recommended.

For more information please see the WSIAT [*Guidelines for the Gradual Resumption of In-Person Hearings During COVID-19.*](#)

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