



Workplace Safety and Insurance
Appeals Tribunal

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

Vice-Chair, Position Description

Purpose

Within the workplace safety and insurance system, the Vice-Chair is responsible for the resolution of appeals from final decisions of the Workplace Safety and Insurance Board and disputes about whether a worker has the right to sue in the Courts by rendering written decisions or, where appropriate, using dispute resolution mechanisms to reach resolutions consistent with the *Workplace Safety and Insurance Act*.

Appeals involve novel, complex and contentious issues (e.g. occupational disease and other complicated medical claims, return-to-work disputes, disputes involving lengthy periods of benefits, employer penalties, employer assessments). Decisions are made under four different legislative schemes and affect the workplace safety and insurance system in Ontario.

The decisions must be rendered impartially and must appropriately consider workplace safety and insurance legislation, prior Tribunal decisions, evidence, Board policy, administrative law requirements and any other applicable law.

Hearings are conducted in a tripartite environment, which is respectful of the parties, their representatives and other Tribunal members and staff.

Key Functions

Law and Procedure

The Vice-Chair may carry out these responsibilities alone as a single Vice-Chair or as the Chair of a tripartite Panel.

A Vice-Chair:

- Prepares for and conducts hearings or reconsiderations, and makes rulings and / or writes decisions.
- Applies excellent judgment and a sound knowledge of administrative law principles to a variety of hearing formats involving unrepresented parties and parties with varying types of representatives. Hearings vary in length and complexity and may be oral, written or electronic.
- Conducts pre-hearing conferences which identify the important issues, determine the status of parties, decide the order of evidence, etc. The purpose of the pre-hearing conference is to narrow the issues and make sure the subsequent hearing is effective and properly focused.
- Conducts hearings and reconsiderations, or other duties as assigned by the Tribunal Chair, in accordance with the *Workplace Safety and Insurance Act* and other applicable laws and Board policy as well as with the policies, procedures and Practice Directions developed by the Tribunal.

- Hears submissions and evidence presented by appellants / parties to a dispute, and ensures that all issues are dealt with at the hearing or reconsideration.
- Actively listens to comprehend interests and positions, which are sometimes difficult to ascertain.
- Makes rulings necessary for the proper and expeditious conduct, control and completion of the hearing or reconsideration.
- Decides whether post-hearing investigation is necessary and issues instructions to Tribunal Counsel and / or Tribunal medical assessors.
- Applies the Tribunal's principles of collegial tripartitism, ensuring that all points of view are considered in the caucus and decision-making.
- Reviews and analyzes all evidence and submissions thoroughly and makes decisions based on the evidence and consideration and application of relevant legislation, Board policy and Tribunal caselaw. Understands the interrelationship between the individual case and the broader workplace insurance scheme, involving industry rating.
- Makes rulings and issues written decisions that are independent and free of outside influence.
- Issues decisions in a timely manner, within the time frames established by the Tribunal and the *Workplace Safety and Insurance Act*.
- Issues clear, well-written, soundly reasoned decisions, which are understandable and can be implemented by the Board and the appellants / parties to a dispute.
- Where assigned or otherwise determined to be appropriate, may act as a mediator among parties by listening to the parties' positions, defining underlying issues and interests, and facilitating a resolution between the parties which is consistent with the *Workplace Safety and Insurance Act*.
- Participates in Tribunal orientation training and stays current in the field by engaging in ongoing professional development, attending training days, Assembly meetings and other continuing education programs. Vice-Chairs must read other Tribunal decisions as part of their continuing education during their time at the Tribunal.
- Participates in meetings of the Tribunal, and when requested to do so by the Chair or the Chair's designate, in training and mentoring sessions and in committees and work groups related to the work of the Tribunal.
- Complies with policies and practices set out by the Tribunal to meet financial accountability and administrative requirements.
- Performs all work so as to maintain and enhance the credibility of the Tribunal with its client groups. A Vice-Chair must be mindful of the need for due process, the requirements of natural justice, applicable legislation, Tribunal procedures and practices, and rules of evidence. Vice-Chairs must apply statutes, Board policies, the common law, and Tribunal Practice Directions and procedures fairly and appropriately.
- Takes part, as requested, in the Tribunal's Case Management initiatives. Case Management requires that all participants be able to work in a team setting with Vice-Chairs, Members and staff.

- Works constructively and contributes to a collegial atmosphere at the Tribunal by sharing knowledge, time and experience with other Tribunal appointees.
- Maintains positive, productive and appropriate relationships with stakeholders and all parties appearing before the Tribunal.
- Undertakes, with the agreement of the Chair, public speaking engagements and other such activities which have the effect of explaining the work of the Tribunal.

Integrity and Fair Practices

- Ensures equal access, fair treatment and due process in dispute resolution and hearing and reconsideration practices.
- Deals with conflict and diverging interests while maintaining decorum, due process, and professional and respectful interactions among all participants.
- Recognizes and deals appropriately with situations that may involve an issue of bias or conflict of interest in accordance with the Tribunal's Code of Conduct, including its Conflict of Interest rules.
- Adheres to the Tribunal's Code of Conduct as amended from time to time. For example, a Vice-Chair may not practise in the area of workplace safety and insurance and cannot make public statements on matters that may be adjudicated.
- Acts with integrity and honesty. Actions are guided by the best interests of the Tribunal and the public.

Qualifications

Vice-Chairs are required to have the following abilities, skills and knowledge in order to carry out their responsibilities effectively:

- Experience in interpreting and applying legislation with specific knowledge of the WSIA and related law and policy.
- Understanding of the professional, institutional and community context within which the Tribunal operates.
- Understanding of the justice system and administrative law and the concepts of fairness / natural justice.
- Demonstrated analytical, conceptual, problem-solving, decision-making and writing skills.
- Ability to listen and communicate clearly and effectively.
- Ability to formulate reasoned decisions and communicate them in writing in a timely manner.
- Well-developed dispute resolution skills.
- Impartiality and sound judgement to fairly assess cases involving issues regarding conflicting verbal / written evidence and the assessment of credibility.
- Ability to perform the work required in an effective, pro-active, self-directed and timely manner, using the resources of the Tribunal appropriately and working with the staff,

other Vice-Chairs, Side Members and the Chair, in a supportive, courteous and responsive manner.

- Commitment to ongoing professional development to enhance expertise and remain current in the field.
- Good organizational skills to manage a heavy workload with complex, ongoing processes.
- Self-confidence / self-control and sensitivity to the diverse interests of appellants/parties in order to maintain effective control in confrontational and stressful situations.
- Commitment to respect diversity, and to maintain fair, transparent processes that meet high professional standards.
- Computer literacy.
- Ability and willingness to travel. Local hearings are held in Toronto, Ajax, Hamilton and Kitchener. Other hearings are held in London, Ottawa, Sudbury, Thunder Bay, Timmins, Sault Ste. Marie and Windsor. Vice-Chairs are required to travel. Out-of-town hearings schedules generally last for three days and require the ability to manage contentious proceedings without the immediate support of the Toronto office.

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