

Report to the Minister 2014

under Section 63(c) of the
Workers' Compensation Act
S.Y. 2008, c. 12

Submitted by the
Workers' Compensation Appeal Tribunal
March 27, 2015

Introduction

The Workers' Compensation Appeal Tribunal (WCAT) was established on April 1, 2000 as a result of legislative amendments. The tribunal is independent from the Yukon Workers' Compensation Health and Safety Board and is a quasi-judicial body authorized to hear final appeals from both workers and employers on compensation claim matters. There are six part-time members on the tribunal: a neutral chair and alternate chair, two members representative of employers and two members representative of workers. Cabinet appoints tribunal members after Ministerial consultation with employers, workers, and their representative organizations. Since its inception, the tribunal has rendered over 200 decisions.

Reporting to the Minister

Under section 63 (c) of the *Workers' Compensation Act*, S.Y. 2008, c. 12, (Act) the appeal tribunal must report to the Minister no later than 90 days after the end of each calendar year with respect to:

- (i) the number of appeals heard, resolved and pending before the appeal tribunal,
- (ii) the activities of the appeal tribunal generally, and
- (iii) such other matters as the Minister requests.

This report addresses (i) and (ii) for the period from January 1, 2014 to December 31, 2014. There were no Ministerial requests during this time.

Number of Appeals Heard, Resolved in 2014

A total of 12 decisions were rendered in 2014. Of the 12 decisions:

- 3 decisions were Stayed by the Board of Directors and directed to be reheard;
- All 3 decisions sent back for rehearing resulted in the same finding.

At the end of 2014, Decision #214 was also stayed by the Board of Directors and directed to be reheard. In January 2015, Decision #215 resulted in the same finding as Decision #214.

Outcome of Appeals Resolved in 2014

Appeals allowed -	8 out of 12
Appeals denied -	4 out of 12

Written Decisions

The tribunal is required to provide decisions with written reasons within 45 working days from the close of hearings; however tribunal members strive to render a decision within 30 days from the close of the hearing, to stay in line with their performance measures.

Activities of the Appeal Tribunal

Tribunal Member Appointments

Margaret McCullough's, representative of workers, appointment was completed on December 15, 2014. To date there has been no new appointment or reappointment to replace her.

Following is the make-up of the tribunal as of December 31, 2014:

Ed Sumner, Chair – reappointed April 1, 2012 to March 31, 2015
John Walsh – Alternate Chair – appointed February 27, 2013 to February 26, 2016.

Representative of Employers

Gary Boyd – appointed October 9, 2012 to October 8, 2015
Brian Edelman – appointed October 16, 2013 to October 15, 2016

Representative of Workers

Maureen Stephens –appointed September 11, 2013 to September 10, 2016

Costs for the Appeal Tribunal

The costs of the tribunal are paid out of the compensation fund. Since the tribunal came into existence in 2000, expenditures have been lower than anticipated budget projections.

- **\$175,740**, 7.35% less than the budgeted amount of **\$189, 687** for 2011;
- **\$183,407**, 2.03% less than the budgeted amount of **\$187, 215** for 2012;
- **\$158,615**, 19.47% less than the budgeted amount of **\$196,965** for 2013;
- **\$199,477**, 7.39% less than the budgeted amount of **\$215,390** for 2014.

The tribunal sets its budget after determining the number of appeals it expects to hear in the coming year.

Estimated Costs for 2015

The appeal tribunal estimated their operating costs for **2015** at **\$210,907**. Any increase or decrease in the number of appeals presented to the tribunal will automatically reflect on operating costs.

Due to a claimant who filed an application to the Supreme Court and the board's increasing involvement in the appeals process, legal costs for 2014 increased substantially.

It is expected the appeals officer position's hours of work will be reduced from full-time to part-time in 2015.

WCAT intends to have their Rules of Procedure translated into French. This could result in a substantial cost to the tribunal for 2015.

We fully expect that legal costs will be higher this year, especially if there are complex claims advanced for appeal.

Conference Attendance

Canadian Council of Administrative Tribunals (CCAT)

CCAT is a national, non-profit organization consisting of members, lawyers and staff of federal, provincial and territorial tribunals, and other persons dedicated to promoting excellence in administrative justice. CCAT provides a forum for discussion, education, research and policy development in the field of administrative justice. Each year CCAT holds a conference dealing with administrative justice issues. Its annual conferences regularly attract delegates from all domestic regions and from several other countries.

CCAT's goals are to:

- enhance and expand contact among members of the administrative justice community,
- promote awareness of the role and importance of administrative justice in everyday life,
- speak out on issues of importance to the administrative justice community, and
- provide support and services of value to its membership.

[from CCAT's website: www.ccat-ctac.org]

CCAT's Annual Conference

CCAT's 30th Annual Conference was held in Gatineau, Quebec from June 1 to 3, 2014. Alternate Chair, John Walsh and Tribunal Member, Brian Edelman attended the conference. Highlights of the conference included:

- The changing roles of appeal tribunals.
- The effects of the ever changing technology on tribunals.
- The impact of the *Dunsmuir* case with respect to judicial review.
- Social media and decision-makers.
- Non-adversarial techniques to support access to justice.

The theme for CCAT's 2014 conference was, "Who Am I?"

The Council of Canadian Administrative Tribunals will be holding its 31st Annual Canadian Conference from May 24-26, 2015. The theme for this year's conference is "Putting Access to Justice into Practice".