

Workers' Compensation Appeal Tribunal Rules of Procedure for Conflict of Interest and Disclosure

Purpose: To ensure members of the Appeal Tribunal exercise their duties and responsibilities in an unbiased manner and to maintain public confidence in the fairness and impartiality of the appeal process.

Natural justice requires that appeal decision-making be unbiased – that is, a tribunal member must not be predisposed to favour or oppose a party's position but instead must base and must be seen to base his or her decision on the evidence.

1. The appeal tribunal must perform their duties fairly in an unbiased manner.
2. The appeal tribunal must avoid all real, apparent or perceived conflicts of interest in the discharge of their duties under the *Workers' Compensation Act*.
3. The fact that a tribunal member has been appointed as representative of the perspective stakeholders does not, by itself, place the member in a real or apparent conflict of interest.
4. A tribunal member who has reason to believe he or she has a conflict of interest or a bias with respect to an appeal he or she is assigned to hear, must advise the Chair of the tribunal as soon as possible. If in doubt as to whether or not there is a conflict of interest, the member must seek the advice of the Chair, who shall make a determination as to whether or not the tribunal member must step down from the matter.
5. Where the Chair of the tribunal has a conflict, he or she must advise the Alternate Chair and step down.
6. If a tribunal member reasonably believes another member has a conflict of interest relating to an appeal which he or she has been assigned to hear, the member holding the reasonable belief should first bring the matter to the attention of the member who may have a conflict. If resolution is not reached, the member holding the belief must bring the matter to the attention of the Chair, who, after consultation with the member who may have a conflict, will decide the issue and render a decision in writing.

Prior to or During the Hearing

7. Prior to assigning a member to an appeal committee, the Chair may disclose to the parties facts regarding a possible or actual conflict for a member on the matter and seek the parties' views as to whether or not the member should or should not hear the appeal. Fully informed parties may consent to having an appeal proceed before the member (that is, parties may waive any objections to the member participating in the appeal).
8. If a party to a matter that is currently before an appeal committee alleges that a member of an appeal committee has a conflict of interest or a bias against the party, the committee may refer the matter to the Chair of the tribunal for direction.

After the Hearing or Decision

9. No tribunal member shall request or accept payment or other benefit for functions which are part of their duties, other than payment to them as set out in the *Workers' Compensation Act*, regulations and board policies or the tribunal's Rules of Procedures.

10. At any stage of a proceeding before the tribunal, members must not communicate about the proceeding, directly or indirectly, with any party, representative or witness, except in the presence of all parties and/or their representatives, or unless communication by correspondence is copied to all the parties and/or their representatives.

MOTION: To accept the Amended Conflict of Interest and Disclosure Rules of Procedure.

MOVED BY: W. C. Gryba, Member
SECONDED BY: Carel Alexander, Member

All in agreement. Motion carried.

Approval Date: May 26, 2009
Effective Date: May 26, 2009