



Direct Appeal Guide for Employers

As an employer, you can appeal some WorkSafeBC decisions directly to us at the Workers' Compensation Appeal Tribunal (WCAT) without first requesting a review by the Review Division. This guide shows you how to do so.

WHAT KIND OF WORKSAFEBC DECISIONS CAN I APPEAL DIRECTLY TO WCAT?

You can appeal a WorkSafeBC decision to us that involves a discriminatory action complaint under sections 150 to 153 of the *Workers Compensation Act*.

You can appeal a WorkSafeBC decision to us if a worker has applied to reopen a claim under section 96(2) of the *Workers Compensation Act* because, for example, there is a significant change in their medical condition or a recurrence of their injury.

You need to ensure that we receive your appeal within **90 days** of the date of the Review Division decision.

Note: We cannot decide any issue or question that was not contained in the WorkSafeBC decision. If you want a decision on something new, you must ask WorkSafeBC for it.

WHO CAN PARTICIPATE IN WCAT APPEALS?

- You, along with your representative or adviser
- The worker, along with their representative or adviser

HOW DO I START MY APPEAL?

You have **90 days** to appeal a WorkSafeBC decision.

You can start your appeal in one of these ways:

1. Fill out a *Notice of Appeal* (Discriminatory Action or Application to Reopen) form at www.wcat.bc.ca. You will find the forms under the **Forms, Fill and Print** tab. If you are not familiar with our appeal process, these forms will help you enter all the required information successfully. Print the completed form, sign it, and send it to us.
2. Print a blank *Notice of Appeal* (Discriminatory Action or Application to Reopen) form from www.wcat.bc.ca, fill it out, sign it, and send it to us. You can also telephone us and we will send you a *Notice of Appeal* form. In order to keep your appeal active, you need to ensure that we receive your completed form within **21 days**.
3. Send a letter telling us why you think the earlier decision is wrong. State the specific results you want from WCAT. Include your name, address, telephone number, WorkSafeBC claim or file number, the date of the decision you are appealing, and your signature.

If you have a copy of the WorkSafeBC decision available, please include it with your *Notice of Appeal* form or letter.

You will find our telephone, fax, and mailing address at the end of this guide.

Note: You do not need all your information and evidence before you appeal. We will later give you the opportunity to strengthen your appeal by providing more information and evidence, either through written or verbal submissions.

WHAT IF THE WORKER AND I DISAGREE WITH THE SAME DECISION BUT ON DIFFERENT ISSUES?

WorkSafeBC decisions often contain many issues. We usually make our decision only on the issues raised by the appellant in the *Notice of Appeal* and the written or oral submissions. You should file your own appeal (cross appeal) to ensure that we consider your issue. If a worker later drops (withdraws) their appeal, and you have not filed your own appeal, you will have to apply for an extension of time, running the risk that this might not be granted.

WHAT HAPPENS AFTER I SEND YOU MY APPEAL FORM OR LETTER?

You will receive a letter from us confirming that we have received your appeal and giving you an appeal number. We may also ask you for more information if your appeal form or letter does not seem complete. In order to keep your appeal active, you need to ensure that you give us all the information we request within **21 days**.

Call us if you do not receive this letter within 21 days from the date you sent in your appeal.

We will notify the worker of your appeal and invite them to participate in it.

We will then ask WorkSafeBC to send you disclosure (a copy of the WorkSafeBC file). If the worker is participating in your appeal, WorkSafeBC will also send them disclosure.

You should start gathering your information and evidence now because it may take some time to get it, especially medical evidence.

WHAT IF I APPEAL TOO LATE?

If your appeal is late, you may be able to get an extension. We'll ask you if special circumstances prevented you from appealing within the time limit. You can read more about acceptable reasons for extensions on our website. See items 8.2 and following in our *Manual of Rules of Practice and Procedure*. You will find it on our website (www.wcat.bc.ca) under the **MRPP** tab.

If you require an extension, please explain your reasons for appealing late on the *Extension of Time to Appeal Application* form or in your letter of appeal. If you don't give us an explanation, we will mail you an *Extension of Time to Appeal Application* form to fill out and return. In order to keep your appeal active, you need to ensure that we receive your completed form within **21 days**.

HOW WILL MY APPEAL PROCEED?

You will make your appeal either verbally (at an oral hearing) or in writing (through written submissions). You can ask for the method you prefer, though we will make the final decision.

Normally, we use oral hearings for appeals involving credibility, when the evidence is conflicting, or when a vice chair thinks it would

provide the best way to fully understand an appeal. Oral hearings are also often used where an appellant finds it challenging to communicate easily in written English.

The other method of appeal is by written submissions. This method is often suitable for appeals that deal with medical, legal, or policy issues.

To learn more about both oral and written submission appeals, please ask us for the relevant Guide, or look for it on our website under the **Research Library** tab.

HOW LONG WILL MY APPEAL TAKE?

You can expect us to decide your appeal within six months from the date that WorkSafeBC gives you disclosure. If your appeal is complicated, reaching a decision may take us more than six months.

If we ask you to present your appeal to us verbally, we will give you a specific time and date for an oral hearing. Please tell us immediately if you need a different date than the one we set for you.

If we ask you to give us a written submission to support your appeal, you have 21 days to send it to us. If you need more time, you may ask for up to 45 more days. If you do receive more time, any other participating party may also receive the same amount of extra time to provide their written submission.

CAN I PUT MY APPEAL ON HOLD?

You can ask us to put your appeal on hold (suspend your appeal), if there is a related matter still before WorkSafeBC, including the

Review Division. Put your request to suspend your appeal in writing and we will inform you of our decision. You can later ask us to go ahead with your appeal without waiting for WorkSafeBC's decision on the related matter.

If your appeal is still on hold when WorkSafeBC sends you its decision on the related matter, ensure that you ask us to continue your appeal within **30 days**. Otherwise, we will assume you are satisfied with the result and close your appeal.

DO I NEED SOMEONE TO REPRESENT ME?

You may appeal on your own of course, but you might also want to ask for assistance from someone familiar with the workers' compensation system, such as a lawyer, a compensation consultant, or an employers' association.

You can get free help with your appeal from an employers' adviser (see the end of this Guide for contact information).

To protect your privacy, we will not discuss your appeal with anyone but you unless you authorize a representative on the *Notice of Appeal* form. You can also file an *Authorization of Representative* form that gives us permission to do so. You will find both forms on our website under the **Forms** tab.

HOW CAN I SPEED UP MY APPEAL?

WCAT receives thousands of appeals each year. Your appeal will proceed more quickly if you:

- Include your WorkSafeBC file number and your WCAT appeal number on everything you send to WCAT.

- Write to us if you change your address or your representative.
- Send us new evidence that supports your appeal as soon as possible.
- Answer any questions we may have about your appeal as soon as possible.
- Attend your oral hearing on the scheduled date, or send us your written submissions by the deadline we give you.

WHAT IS A STAY, WHY WOULD I WANT ONE, AND HOW DO I GET ONE?

A stay is when we order a delay in the implementation of a WorkSafeBC decision (section 244 of the *Workers Compensation Act*). Appealing a WorkSafeBC decision does not automatically delay its implementation. A stay is an extraordinary remedy.

You might ask us for a stay of a decision that requires your firm to reimburse a worker's lost wages. If we approve a stay, you would not have to reimburse the worker while we are considering your appeal. You can apply for a stay on the *Stay Application* form. You will find it on our website under the **Forms** tab.

We will evaluate your stay application in terms of the following factors:

- Whether your appeal shows that it has merit
- Whether you would suffer serious harm if the stay were not granted (such as loss of a business)

- Which party would suffer more if the stay were granted or denied
- Whether granting the stay would endanger workers

We will not process your stay application if your appeal is late or is missing important information, or if you do not send us your written submission about the above factors, either with your stay application or within seven days after we receive your *Notice of Appeal* form.

WHERE CAN I FIND MORE INFORMATION?

You will find more information about starting an appeal, including the *Notice of Appeal* forms, on our website (www.wcat.bc.ca) under the **Starting an Appeal** tab.

For more information about a WorkSafeBC claim or a review at the Review Division, please contact:

WorkSafeBC: 1 888 967-5377
Review Division: 1 888 922-8804

WHERE CAN I GET HELP WITH MY APPEAL?

You can get free help with an appeal from an employers' adviser at one of these locations:

EMPLOYERS' ADVISERS

Website: www.labour.gov.bc.ca/eao

VANCOUVER/LOWER MAINLAND REGION

Abbotsford

207 - 32555 Simon Avenue
Abbotsford, BC V2T 4Y2
Telephone: 604 870-5492
Fax: 604 870-5498
Toll Free within BC and
Alberta: 1 866 870-5492

Richmond

620 - 8100 Granville Avenue
Richmond, BC V6Y 3T6
Telephone: 604 713-0303
Fax: 604 713-0345
Toll Free within BC and
Alberta: 1 800 925-2233

VANCOUVER ISLAND REGION

Nanaimo

404 - 495 Dunsmuir Street
Nanaimo, BC V9R 6B9
Telephone: 250 741-5500
Fax: 250 741-5508
Toll Free within BC and
Alberta: 1 866 827-2277

Victoria

400 - 3960 Quadra Street
Quadra Centre
Victoria, BC V8X 4A8
Telephone: 250 952-4821
Fax: 250 952-4822
Toll Free within BC and
Alberta: 1800 663-8783

INTERIOR REGION

Kamloops

101 - 70 Second Avenue
Kamloops, BC V2C 6W2
Telephone: 250 828-4397
Fax: 250 828-4563
Toll Free within BC and
Alberta: 1 866 301-6688

Kelowna

102 - 1726 Dolphin Avenue
Kelowna, BC V1Y 9R9
Telephone: 250 717-2050
Fax: 250 717-2051
Toll Free within BC and
Alberta: 1 866 855-7575

Nelson

503 - 310 Ward Street
Nelson, BC V1L 5S4
Telephone: 250 354-6139
Fax: 250 354-6138
Toll Free within BC and
Alberta: 1 877 877-5524

Prince George

206 - 1577 7th Avenue
Prince George, BC V2L 3P5
Telephone: 250 565-4285
Fax: 250 565-4288
Toll Free within BC and
Alberta: 1 888 608-8882

WCAT INFORMATION GUIDES

*Appealing a Review Division Decision -
Worker's Guide**

*Appealing a Review Division Decision -
Employer's Guide**

*Respondent's Guide**

*Oral Hearing Guide**

*Written Submission Guide**

*Medical Evidence Guide**

*Post Decision Guide**

Judicial Review Guide

Legal Action Guide

(Section 257 Certificate)

Direct Appeal Guide for Workers

Direct Appeal Guide for Employers

* These Guides are also available on our
website in Punjabi, Chinese (Traditional)
and Chinese (Simplified)

WCAT CONTACT INFORMATION

Website: www.wcat.bc.ca

Telephone: 604 664-7800

Fax: 604 664-7898

Toll Free within BC: 1 800 663-2782

Mailing Address:

Workers' Compensation Appeal Tribunal
150 - 4600 Jacombs Road
Richmond, BC V6V 3B1