WCAT Decision Number: **WCAT-2004-00100**
WCAT Decision Date: **January 12, 2004**
Panel: **Michelle Gelfand, Vice Chair**

Introduction

The worker applies for an extension of the time to appeal a June 6, 2003 finding of the Workers' Compensation Review Board (the Review Board), which was mailed on June 9, 2003.

Effective March 3, 2003, the Workers' Compensation Appeal Tribunal (WCAT) replaced the Appeal Division and the Review Board. The worker's right to appeal the June 6, 2003 Review Board finding arises under section 41(3) of the transition provisions set out in the *Workers Compensation Amendment Act (No. 2), 2002* (Bill 63). Section 41(3) allows parties to appeal Review Board findings to WCAT within 30 days after the finding was sent out. The chair of WCAT is authorized to extend the time to appeal under section 243(3) of the *Workers Compensation Act* (the Act). The chair has delegated that authority to all WCAT members.

As the employer of record is no longer registered with the Workers' Compensation Board, the Employers' Advisers office is participating in this application.

The worker is unrepresented.

Issue(s)

The issue is whether the worker should be granted an extension of time to appeal the June 6, 2003 Review Board finding.

Analysis

Section 243(3) sets out three requirements for a successful application for extension of time. The chair (or delegate) must conclude that:

- special circumstances precluded the filing of the appeal on time;
- an injustice would result if the extension were not granted; and
- the discretion to grant the extension should be exercised.

The worker appealed the June 6, 2003 Review Board finding on July 18, 2003, by telephone. Taking into account the 30 day time period for appealing and the eight day statutory mailing period, the appeal was initiated one day late.

The worker explains his delay in appealing on the basis that, in late June, his friend's mother passed away, and he was called upon to arrange for his friend's trip to England

to attend the funeral. He explains that this involved arranging flights and a passport, and took priority over completing appeal forms.

In order to allow the extension of time, I must first conclude that special circumstances precluded the worker from appealing within the statutory time period. Although I appreciate that arranging a flight and passport would take some time, I cannot realistically conclude that those activities prevented or hindered the worker from completing and submitting the appeal form, which is a relatively straightforward document.

Despite the very short delay in appealing, I find that the worker has not established that special circumstances precluded him from initiating this appeal within the statutory appeal period.

Conclusion

The extension of time to appeal the June 6, 2003 Review Board finding is denied.

Michelle Gelfand, Vice Chair

MG/dlh

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