



DIRECT APPEAL GUIDE FOR EMPLOYERS

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

You need to ensure that we receive your appeal within 90 days of the date of the WorkSafeBC decision. Do not wait for new information that you want to include in your appeal. After your appeal is filed, we will give you more time to provide further information.

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

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

You can appeal a WorkSafeBC decision to reopen a worker's claim (or not) under section 96(2) of the *Workers Compensation Act* (Act) to us. To be a "reopening" decision, there must be reference to section 96(2) of the Act, or substantially the same language as section 96(2) of the Act, in either the WorkSafeBC decision, or in the worker's application to WorkSafeBC to reopen their claim.

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 a new decision.

HOW DO I START MY APPEAL?

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

You can start your appeal in one of these ways:

1. Fill out a *Notice of Appeal* (Discriminatory Action or Application to Reopen) form available at www.wcat.bc.ca. You will find a fillable version of the form under the **Forms** tab. If you are not familiar with our appeal process, these forms will help you enter all the required information. Send the completed form to us by email, fax or mail.
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.
3. 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 by the deadline set out in our letter (usually 21 days).
4. Send a letter telling us why you think the Board's decision is wrong. State the specific results you want from WCAT. Include your name, address, telephone number, the WorkSafeBC claim or file number, the date of the decision you are appealing, and your signature.

Please include a copy of the first page of the WorkSafeBC decision with your *Notice of Appeal* form or letter.

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

Note: WCAT must receive your Notice of Appeal or letter within 90 days of the WorkSafeBC decision or your appeal will be late. Do not wait for new information that you want to include in your appeal. After your appeal is filed, we will give you more time to provide further information.

DIRECT APPEAL GUIDE FOR EMPLOYERS

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

WorkSafeBC decisions often contain many issues. We usually make a decision only on the issues raised by the appellant in the *Notice of Appeal* and the written or oral submissions. Even if the worker has already appealed, 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, and you run the risk that it might not be granted.

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

We will send you a letter 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 is incomplete. If we request further information, you must give us all the information we request within **21 days** in order to keep your appeal active.

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

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

We will then ask WorkSafeBC to give you “disclosure” (an updated copy of your claim file). WorkSafeBC will send you an email with instructions for online access when it is available. If the worker is participating in your appeal, WorkSafeBC will also give them disclosure.

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

WHO CAN PARTICIPATE IN WCAT APPEALS?

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

WHAT IF I APPEAL TOO LATE?

If your appeal is late, you may be able to get an extension. We will 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: WorkSafeBC Decision* form or in your letter of appeal. If you do not 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, where there are significant disagreements about the facts, 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 in written English.

DIRECT APPEAL GUIDE FOR EMPLOYERS

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

To learn more about both oral and written submission appeals, please look for the Written Submission or Oral Hearing Guide on our website under the **Information Guides** tab. If you do not have access to the internet, please call us and we will send you a copy.

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, it may take more than six months for us to reach a decision.

If we ask you to present your appeal at an oral hearing, we will give you a specific time and date for the 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.

DO I NEED SOMEONE TO REPRESENT ME?

You may appeal on your own, 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. If you did not authorize a representative on your *Notice of Appeal* but want to authorize someone to represent you, you can file an *Authorization of Representative* form. 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?

Appealing a decision does not automatically delay its implementation. A stay is when we order a delay in the implementation of a WorkSafeBC decision (section 244 of the Act). A stay application usually concerns an order that the employer make a payment to WorkSafeBC or a worker. A stay is an extraordinary remedy, granted only in extraordinary circumstances.

DIRECT APPEAL GUIDE FOR EMPLOYERS

If we approve a stay, you would not have to pay WorkSafeBC or the worker while we are considering your appeal. You can apply for a stay using 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 worker safety.

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

WHERE CAN I GET HELP WITH MY APPEAL?

You can get free help with your appeal from an employers' adviser. For toll-free advice anywhere in British Columbia, or information about the Employers' Advisers Office nearest you, please call:

1 800 925-2233.

You can also visit the Employers' Advisers website: www.labour.gov.bc.ca/eao.

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

WCAT INFORMATION GUIDES

(available on our website – if you do not have access to the internet, call us and we will send you a copy)

- *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)*

DIRECT APPEAL GUIDE FOR EMPLOYERS

WCAT CONTACT INFORMATION

Mailing Address:

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

Telephone: 604 664-7800

Email: appeals@wcat.bc.ca

Fax: 604 664-7898

Toll Free within BC: 1 800 663-2782

Website: www.wcat.bc.ca

If you have a smart phone, scan
this code to access our website.

