



Before a Hearing

The Northwest Territories & Nunavut Workers' Compensation Appeals Tribunal is the final level of appeal of Review Committee decisions. The Tribunal can only hear appeals of decisions made by the Commission's Review Committee.

These instructions are intended to provide general assistance only with the appeal process. For a more information, please refer to the Tribunal's **Regulations** which can be downloaded from the Tribunal's website at www.appealstribunal.ca or contact the Tribunal.

Appeal Package

An appeal package is prepared by the Tribunal based on a review of the file received from the Commission and the Notice of Appeal. The Appeal Package contains all of the documents that relate to the issue(s) under appeal. Also forming part of the Appeals Package are the relevant sections of the *Workers' Compensation Act* and Commission policies.

When the Appeal Package is prepared, a copy is sent to the Appellant and the other parties that expressed an interest in participating in the appeal.

Each party is responsible for ensuring that the Appeal Package contains all of the documents needed by them at the hearing. If the Appellant or another party want documents to be considered by the Tribunal, the documents should be provided to the Tribunal and the documents will be included in the appeal package.

If the Appellant wants to change, add, or withdraw an issue in an appeal, they should contact the Tribunal immediately.

Certificate of Readiness to Proceed

When the Appellant receives the Appeal Package, a *Certificate of Readiness to Proceed* form will be included. **The Appellant must complete the Certificate and return it to the Tribunal in order for the appeal to be scheduled for hearing.** If the Appellant would like additional documents considered at the appeal, the documents are to be sent to the Tribunal with the Certificate.

Normally, the *Appeal Package and Certificate of Readiness to Proceed* are mailed to the Appellant and other participating parties with **30 days** of the Tribunal receiving the Commission's file.

If additional documents are requested by the Appellant or another party to be included in the Appeal Package, the additional documents should be listed on the provided form and a copy of the documents sent to the Tribunal together with the Certificate.

It is expected that the Appellant will return the completed Certificate to the Tribunal within 21 days of receiving it.

Delay

If the Tribunal does not receive the Certificate within 60 days, the Appellant must notify the Tribunal of the reasons for the delay and when the appeal will be ready to proceed. There may be good reasons why the appeal is delayed such as ill-health, unavailability of witnesses, or documents needed for the appeal are not available. If the Appeal is not ready to proceed within 120 days from the date the Notice of Appeal was filed, the Tribunal may arrange a pre-hearing conference to discuss with the parties the scheduling of the hearing or the Tribunal may set a hearing date.

The Tribunal may dismiss the appeal if it is delayed by the Appellant without reason for six months.

Type of Hearing

The Certificate of Readiness to Proceed will also allow the Appellant to indicate what kind of hearing is requested.

There are three types of hearings:

1. Written

A written hearing means that the Tribunal Member(s) hearing the appeal will review only the documents in the Appeal Package and any other written submissions made by the parties. A decision is made by the Tribunal based only on the documents. The parties will not be present for a written hearing and no one will have the opportunity to speak or present witnesses.

Appellants are encouraged to request a written hearing when:

- There are only one or two appeal issues;
- The appeal issues and submissions are not complex;
- There is limited evidence and the evidence is included in the Appeal Package;
- The Appellant is concerned about the length of time to process the appeal. Written appeals can be processed and decided more quickly than an in-person hearing.

2. In-person

An in-person hearing means that the Appellant and other parties appear before the Tribunal to give oral submissions and may have witnesses at the hearing. These hearings are generally held in Yellowknife, however may take place anywhere within the Northwest Territories or Nunavut. If the Appellant wants an In-person hearing and does not live in Yellowknife, all costs associated with attending the hearing are at the Appellant's expense.

3. In-person (video-conference)

An In-person (video-conference) hearing means that the Tribunal will set up a video-conference so that the Appellant can appear before the Tribunal but only needs to travel to the closest video-conference facility to their residence. In most cases this means less than 2

hours travel time. The Appellant may request reimbursement after the hearing of reasonable travel expenses (e.g. mileage, meals) to attend the hearing.

4. In-person (tele-conference)

An In-person (tele-conference) hearing means that the Tribunal will set up a telephone conference call so that the Appellant can appear before the Tribunal by telephone.

Once the completed *Certificate of Readiness to Proceed* is received by the Tribunal, a hearing or pre-hearing conference is generally scheduled within **30 days**.

Scheduling the Appeal Hearing Date

The Appeals Tribunal will schedule a date for the hearing. The Appellant and other parties will be informed by letter confirming the date, time, place, and kind of hearing scheduled.

If the Appellant or any other party is not able to attend on the scheduled hearing date, they must inform the Tribunal no later than 14 days after the date of the Tribunal's letter confirming the hearing date.



In person

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