

Report to the Minister 2019
under Section 63(c) of the
Workers' Compensation Act
S.Y. 2008, c. 12

Submitted by the
Workers' Compensation Appeal Tribunal
March 30, 2020

Introduction

The Workers' Compensation Appeal Tribunal (WCAT) was established on April 1, 2000, as a result of legislative amendments. The tribunal is independent from the Yukon Workers' Compensation Health and Safety Board and is a quasi-judicial body authorized to hear final appeals from both workers and employers on compensation claim matters. There are six part-time members on the tribunal: a neutral chair and alternate chair, two members representative of employers and two members representative of workers. Cabinet appoints tribunal members after Ministerial consultation with employers, workers, and their representative organizations. Since its inception, the tribunal has rendered over 200 decisions.

Reporting to the Minister

Under section 63 (c) of the *Workers' Compensation Act*, S.Y. 2008, c. 12, (Act) the appeal tribunal must report to the Minister no later than 90 days after the end of each calendar year with respect to:

- (i) the number of appeals heard, resolved and pending before the appeal tribunal,
- (ii) the activities of the appeal tribunal generally, and
- (iii) such other matters as the Minister requests.

This report addresses (i) and (ii) for the period from January 1, 2019 to December 31, 2019. There were no Ministerial requests during this time.

Number of Appeals Heard, Resolved in 2019

A total of 1 decision was rendered in 2019.

Outcome of Appeals Resolved in 2019

Appeals denied - 1 out of 1

Written Decisions

The tribunal is required to provide decisions with written reasons within 45 working days from the close of hearings; however tribunal members strive to render a decision within 30 days from the close of the hearing, to stay in line with their performance measures.

Activities of the Appeal Tribunal

Tribunal Member Appointments

Following is the make-up of the tribunal as of January 1, 2019:

Chair

Michael Riseborough – appointed April 1, 2018 to March 31, 2021.

Alternate Chair

Stuart Mackay – appointed from December 19, 2018 to December 18, 2021

Representative of Employers

Gary Boyd - reappointed for a six month term from December 19, 2018 to June 18, 2019

Brian Edelman – reappointed April 28, 2017 to April 27, 2020

Wayne Huffman – appointed November 21, 2019 to November 20, 2022

Representative of Workers

Derek Yap – appointed March 21, 2018 to March 20, 2021

David Anderson – appointed March 27, 2018 to March 26, 2021

Costs for the Appeal Tribunal

The costs of the tribunal are paid out of the compensation fund. Since the tribunal came into existence in 2000, expenditures have been lower than anticipated budget projections.

Year	Budget	Actual	Appeals Resolved
2012	\$187,215	\$183,407	5
2013	196,965	158,615	6
2014	215,390	199,477	12
2015	210,907	124,771	6
2016	168,290	114,451	5
2017	170,008	133,370	6
2018	182,535	136,751	7
2019	201,636	145,678	1

The tribunal sets its budget after estimating the number of appeals it expects to hear in the coming year.

Estimated Costs for 2020

The appeal tribunal estimated their operating costs for **2020** at **\$211,986**. We have increased legal, training and travel costs. Any increase or decrease in the number of appeals presented to the tribunal will automatically reflect on operating costs.

Highlights from 2019

The Tribunal had expected the Appeal Volume to exceed the historical averages in 2019. Such did not prove to be the case; the tribunal actually experienced its lowest volume since inception rendering only one decision. An ongoing and complex appeal, with the potential for Constitutional challenge did not however provide for a reduction in work volume in 2019. While the results of that particular appeal were identified in 2019, the decision was not finalized until January 2020 (accordingly the statistic will be reflected in the 2020 report.)

Member Training

For the past several years the Tribunal had decided not to participate in the annual Council of Administrative Tribunal's Conference (CCAT), having rationalized a preference to taking training locally in Whitehorse as both a cheaper and a more relevant training option. We have worked with the Foundation of Administrative Justice to co-ordinate the delivery of training to best meet our needs in conjunction with other Yukon administrative agencies to tailor relevant and cost-effective training opportunities.

In the past year, under the very able leadership of the Chair of the Ontario Workplace Safety and Appeals Tribunal, the chairs of the various workers' compensation appeals agencies across Canada have coalesced into a cohesive working group. That group convenes at least quarterly by phone and has initiated in-person meetings at the annual CCAT conference. The group shares best practices, appeals and precedents of a very useful nature, and from Yukon's perspective, has been actively instrumental in providing information concerning the practices of agencies nationally. Staff at the Ontario Workplace Safety and Appeals Tribunal office coordinated gathering and analyzing the data on our behalf, and at our request. That material has helped inform this Tribunal's input to the Yukon Workers' Compensation, Health and Safety Board's legislative review.

As a consequence of the very direct benefits the Tribunal receives from this relationship, we will be represented at the conference going forward, but will strive to maximize local training in the interest of containing costs.