



This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Workers Compensation Act* and the *Rehabilitation Services and Claims Manual, Volumes I and II* for purposes of interpretation and application of the law.

Factsheet #2  
Updated: January 2013

## APPEALS TO THE WORKERS' COMPENSATION APPEAL TRIBUNAL (WCAT)

### What is the Workers' Compensation Appeal Tribunal (WCAT)?

WCAT is an appeal tribunal with the legal authority to change decisions made by WorkSafeBC and the Review Division. WCAT is independent of WorkSafeBC and the Review Division.

### Who can appeal?

Any person who is directly affected by a decision of WorkSafeBC or a decision made by the Review Division of WorkSafeBC (Review Division) can appeal to WCAT, including:

- a worker;
- a dependant of a deceased worker;
- a representative of the estate of a deceased worker;
- an Independent Operator;
- an employer;
- a union.

If you appeal, you are the appellant and your employer will be invited to participate as the respondent. If your employer appeals, your employer will be the appellant and you will be invited to participate in the appeal as the respondent.

### Should I participate in my Employer's Appeal?

You do not have to participate in your employer's appeal however you should strongly consider doing so if the appeal may affect your WorkSafeBC benefits. In order to participate in the appeal you must send a completed Notice of Participation form to WCAT.

For more information:  
Website: [www.labour.gov.bc.ca/wab](http://www.labour.gov.bc.ca/wab)



Lower Mainland/Fraser Valley/Kootenays: 1-800-663-4261  
Northern & Central Interior: 1-800-663-6695  
Vancouver Island: 1-800-661-4066

## APPEALS TO THE WORKERS' COMPENSATION APPEAL TRIBUNAL (WCAT)

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### Can I appeal Review Division decisions WCAT?

**Most decisions of the Review Division can be appealed to WCAT.** Your appeal of a Review Division decision must be received at WCAT **within 30 days** of the Review Division decision. Do not miss this deadline. Some Review Division decisions are final and cannot be appealed to WCAT, including:

- decisions on vocational rehabilitation benefits;
- decisions on commutations (or lump sum awards) of permanent disability awards;
- decisions on the procedures or conduct of a “review” by a Review Officer (including the denial of a request for an extension of time); and
- some permanent disability awards (please contact the Workers’ Advisers Office nearest you for further information on this).

### Can I Appeal WorkSafeBC decisions directly to WCAT?

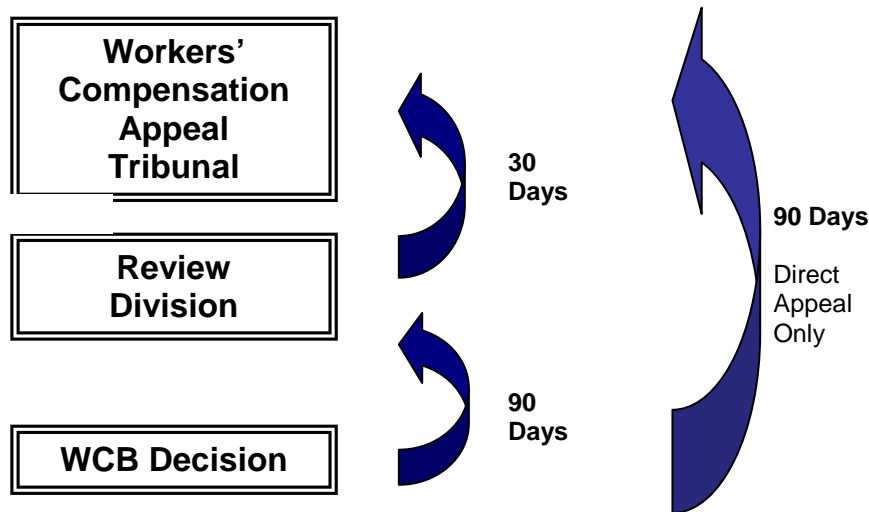
Generally, you must go through the Review Division process before you can appeal to WCAT. However, the following types of decisions may be **appealed directly to WCAT**:

- WorkSafeBC decisions on reopening of your claim when you formally applied for the reopening;
- Compliance decisions on a discriminatory action compliant;
- WorkSafeBC prevention orders or decisions not to issue an order

**Your appeal of a WorkSafeBC decision must be received at WCAT within 90 days of the WorkSafeBC decision. Do not miss this deadline.**

# APPEALS TO THE WORKERS' COMPENSATION APPEAL TRIBUNAL (WCAT)

## *Review and Appeal Process and Timelines*



### **How do I start an appeal?**

You must complete a Notice of Appeal form and send it to WCAT.

The Notice of Appeal form can be obtained from WCAT, any WorkSafeBC office, or from any Workers' Adviser office. The form is also available on-line on the WCAT web site: [www.wcat.bc.ca](http://www.wcat.bc.ca), the WorkSafeBC web site: [www.worksafebc.com](http://www.worksafebc.com), or the WAO web site: [www.labour.gov.bc.ca/wab](http://www.labour.gov.bc.ca/wab).

You or your representative must sign the Notice of Appeal form. If your representative signs the Notice of Appeal on your behalf, he or she must attach an authorization signed by you, unless he or she is a Workers' Adviser.

Within three weeks, WCAT will send you a letter confirming that your appeal form has been received. If this does not happen, you should call WCAT immediately.

Vancouver area: 604 664 7800  
 Toll Free in BC: 1 800 663 2782

## APPEALS TO THE WORKERS' COMPENSATION APPEAL TRIBUNAL (WCAT)

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If you mail the Notice of Appeal form send it to

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

If you fax the form, send it to

WCAT Fax number: 604 664 7898

You can also start your appeal by phoning WCAT and providing your name, your mailing address, telephone number, and WorkSafeBC claim number(s) and Review Division decision reference number(s). You will also need the date on the Review Division decision letter that you want to appeal. If you telephone WCAT before the deadline for appeal (see above), WCAT will give you an additional 21 days to send in the Notice of Appeal form.

**Important:** When you speak to WCAT you should ask for an appeal confirmation number as proof that you called before the deadline.

### **Disclosure:**

You have a right to receive an updated copy of your WorkSafeBC claim file. This is called “disclosure.” When you send in the Notice of Appeal form, WCAT will automatically tell WorkSafeBC to send you an updated copy of your claim file. This will take about two months.

Our office recommends you request a copy of the file before you send in the Notice of Appeal form. You must make this request in writing. We suggest you use a Request for Disclosure form. You may mail or fax your request to:

Disclosures Department  
Compensation Services Division  
WorkSafeBC  
Box 5350, Station Terminal  
Vancouver BC V6B 5L5  
Fax: 604 276-3102

You can ask that you receive a paper copy of your claim file or, if you prefer, you can ask for a CD-ROM version of your claim file. You can also register for secure internet access to your claim file. For details, see our factsheet ‘Secure Internet Access to your WorkSafeBC Claim’.

## APPEALS TO THE WORKERS' COMPENSATION APPEAL TRIBUNAL (WCAT)

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Disclosure is usually provided within 10 days. If you do not receive your file, you should contact the Disclosures Department by telephone at 604 279-7607 (lower mainland) and toll free in BC 1 800 661-2112.

Note: A request for disclosure of your file does not register your appeal. We only recommend obtaining disclosure prior to filing an appeal where you have sufficient time to obtain and review the file before your appeal deadline

### **What happens if my Notice of Appeal is late?**

If the WCAT does not receive your Notice of Appeal form within the deadline, your appeal may not proceed.

If you are late, you can request an Extension of Time. You must request this in a letter which explains the special reason or reasons why your appeal was late. Your letter must also explain why it would be unjust not to grant your request for an extension. WCAT has discretion not to allow your request and as a result there is no guarantee you will be granted an Extension of Time.

### **Who will Hear and Decide my Appeal?**

Your appeal will be decided by a Panel of WCAT. Most Panels consist of a single Vice Chair.

### **How will my Appeal be Heard and Decided?**

#### **Option 1: "Read and Review"**

"Read and Review" means that the WCAT Panel will read your file and make a decision on your appeal without holding a formal hearing.

You can write a letter and tell your side of the story. You can explain in this letter why you think you should get the benefits you want. This is called a written submission. You can also send WCAT more written information and evidence to support your case such as letters of support from a doctor or co-worker.

WCAT will send you a letter telling you when the deadline is for sending any new evidence or submissions. In most cases you will get 21 days from when WorkSafeBC has notified WCAT that you were sent disclosure of your file. If you need more time, you can ask for it. WCAT will allow up to 45 days of extra time to send in more information.

## **APPEALS TO THE WORKERS' COMPENSATION APPEAL TRIBUNAL (WCAT)**

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If your employer participates in your appeal, WCAT will send your employer a copy of your written submission and new evidence and invite your employer to respond to your submission and to send in more information. WCAT will send you a copy. WCAT will then give you 14 days to comment on your employer's submission and evidence.

### **Option 2: "Oral Hearing"**

You may request an Oral Hearing. If you request an oral hearing you will need to explain on the Notice of Appeal form why you think an oral hearing is necessary. If WCAT grants your request it will schedule an "Oral Hearing" which involves an opportunity for you and your employer to present evidence in person.

You will be allowed to have a representative attend the oral hearing with you. You will also be allowed to bring witnesses. You must tell WCAT before the oral hearing takes place if you plan to bring a representative or witnesses.

If your employer participates in your appeal, WCAT will invite your employer to attend the oral hearing. Your employer may also bring witnesses to the hearing.

WCAT holds oral hearings in various cities around BC. You can choose the location that is closest to you from the list of places on the Notice to Appeal form. In some cases, WCAT may decide to conduct the oral hearing by telephone.

You must send in any new written evidence, such as a new medical report, 21 days before the date of the oral hearing. If you cannot meet this deadline, you should contact WCAT immediately.

At the oral hearing you will be able to tell the WCAT panel your side of the story. You will also be able to explain to the WCAT panel why you think the decision should be changed. If you choose, you can also give the WCAT panel a letter at the hearing that summarizes your case.

### **What if I don't speak English?**

If you do not speak English and need help, contact a friend, your local community centre, or an immigrant services organization to find someone who may be able to translate for you. Tell WCAT if you need an interpreter at an oral hearing and they will arrange and pay for an interpreter to be present. In the hearing you must use the interpreter supplied by WCAT and cannot rely on friends or family members to translate for you.

## APPEALS TO THE WORKERS' COMPENSATION APPEAL TRIBUNAL (WCAT)

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### **Do I need a lawyer?**

Legal costs are not recoverable in worker's compensation cases. However, if you want to speak to a lawyer, you can contact the Lawyer Referral Service at 604-687-3221, or 1-800-663-1919.

### **Where can I get help with my appeal without cost?**

#### Your Union

You may be able to obtain assistance from your union if you are a union member.

#### The Workers' Advisers Office

The Workers' Advisers Office can give you advice and help with your appeal. A Workers' Adviser may also be able to represent you.

### **How long will it take to make the decision?**

By law, WCAT must make a decision on your appeal within 180 days after WorkSafeBC has provided you with disclosure. In complex cases, the WCAT panel can ask for more time in order to complete its decision.

### **What happens after the decision is made?**

The WCAT decision will be sent to you by letter. If WCAT decides the appeal in your favour, your file will be sent back to WorkSafeBC to do whatever WCAT instructs.

If you disagree with the WCAT decision, there is no further appeal within the worker's compensation system. The WCAT decision is final, subject to two other processes. For information on these other processes see the WAO factsheet *Reconsideration of WCAT Decision and Judicial Review*.