



**Workplace Health, Safety  
and Compensation  
Review Division**

**Quick Reference  
Guide**

## Introduction

This booklet provides a summary of the Workplace Health, Safety and Compensation Review Division's (WHSCRD) processes and aims to brief clients on what to expect when applying for a review.

Additional details on all of the information in this booklet can be found in WHSCRD's **Client Service Manual** at [www.gov.nl.ca/whscrd](http://www.gov.nl.ca/whscrd). You can also contact WHSCRD through one of the methods listed on page 8 of this booklet. Our staff are available to address your questions about WHSCRD's processes.

## About the Review Division

WHSCRD is an independent entity that operates separate from WorkplaceNL.

WHSCRD is responsible for the review of WorkplaceNL's final decisions to ensure they comply with the Workplace Health, Safety and Compensation Act (WHSCA) and Regulations, as well as the policies of WorkplaceNL.

## Role of the Review Commissioners

WHSCRD consists of a panel of up to seven Review Commissioners, one of whom is appointed Chief Review Commissioner. Review Commissioners are responsible for reviewing case files, hearing evidence and rendering written decisions on cases.

They review final decisions of WorkplaceNL as they apply to:

- acceptance of a worker's claim;
- a worker's entitlement to compensation benefits;
- whether an injury or disease is work related;
- whether accident costs should be charged to an employer;
- employer assessment disputes and duty to accommodate.

## Applying for a Review

WHSCRD can only accept applications on issues that have been issued a final decision from the Internal Review Division of WorkplaceNL.

An application for review can be brought forward by:

- A worker;
- A deceased worker's dependent;
- An employer wishing to challenge a compensation decision;
- An employer wishing to challenge an assessment decision.

To begin the review process, a completed **Request for Review** form and a copy of WorkplaceNL's final decision must be forwarded to WHSCRD within **30 days** from the date of WorkplaceNL's final decision.

If the 30 day time limit is exceeded, the **Extension of Time** portion of the Request for Review form must be completed for review and reason(s) provided for the late application.

**Request for Review** applications dated beyond **12 months** from WorkplaceNL's final decision date will not be accepted.

Upon acceptance of an application from a worker, WHSCRD will notify the employer in writing that the application has been received. A copy of the worker's application will be provided to the employer, as well as an **Employer's Notice of Intention to Participate (ENIP)** form.

Employers are required to return the **ENIP** form within **14 days** of the date of the correspondence. If it is not returned in that time frame, WHSCRD will assume the employer does not wish to participate in the proceeding and no further communication will occur.

**All applications and WHSCRD forms referenced in this booklet can be found at: [www.gov.nl.ca/whscrd](http://www.gov.nl.ca/whscrd), picked up at WHSCRD's Mount Pearl office, or forwarded by mail upon request.**

## Representation

While you are not required to have representation when participating in a WHSCRD review, you do have the right to be represented by another party. Representatives can be a friend or family member, a private consultant, lawyer, MHA, union member, etc.

If you retain a representative, you must complete the **Authorized Representative Consent** portion of the Request for Review form. WHSCRD will not discuss your appeal with anyone other than you unless this authorization is on your file.

Once your written consent is obtained by WHSCRD, both you and your representative will receive copies of all correspondence and file information related to your appeal.

WHSCRD should be notified as soon as possible if there are changes in your representation.

### For assistance obtaining representation:

- Injured workers and their dependents can speak with the Office of the Workers' Advisor free-of-charge at: (709) 754-3927; 1 (800) 563-1998; or 1 (877) 489-9193.
- Employers can speak with the Office of the Employers' Advisor at: (709) 368-6532 or 1 (888) 738-5900

## The Representative's Role

Representatives should be prepared to proceed with the hearing when contacted with a hearing date. Your case description will be provided to you and your authorized representative well in advance of the hearing date.

You and your representative should review and be familiar with the case file, your position, and any relevant workers' compensation policies and legislation to ensure you are ready on your hearing day. Any questions regarding your case file material should be directed to WHSCRD's office as soon as possible after receiving the file.

## **The Review Process - Before the Hearing**

WHSCRD is the final level of review in the workers' compensation system, for workers, dependents, and employers wishing to appeal final decisions of WorkplaceNL.

Upon acceptance of your review application, your case will be assigned to a Client Service Representative (CSR) and your WorkplaceNL file will be released to WHSCRD. Your CSR will be your primary contact at WHSCRD and will contact you with a scheduled date, time, and location for your hearing.

In advance of your hearing date, you will receive a copy of your claim information referred to as a Case Description. Your Case description will be distributed to all relevant parties in paper or electronic format and will be used at the hearing. **The Case Description should be reviewed immediately upon receipt and your CSR notified if there are concerns.**

All participants should be familiar with the contents of the Case Description and be prepared to explain their position, in detail, to the Review Commissioner. Documents contained in the Case Description should also be referenced as evidence to support the claim.

## **The Hearing Process**

WHSCRD may conduct a hearing in one of the following ways:

- An oral hearing, where parties participate in person or by teleconference; videoconference, or
- A paper (documents only) review conducted by a Review Commissioner where in-person participation is not required.

**The same file of information is used by the Review Commissioner to reach a decision, regardless of the hearing method.**

In person hearings are held in Mount Pearl, Gander, Grand Falls-Windsor, Corner Brook, Labrador City, and Happy Valley-Goose Bay.

The hearing date, time, and location are confirmed in writing with all participants. Oral hearings are informal and last between one and three hours, depending on the complexity of the issue(s) and the number of participants. Parties to the hearing can participate in person, by teleconference, or videoconference.

At an oral hearing, all participants meet in the same room. The Review Commissioner will explain the proceedings and the participant who has requested the review presents their case first, followed by the other participants. The Review Commissioner may have questions after each presentation. The hearing will end with the participant who requested the review summarizing their case. All oral WHSCRD hearings are recorded.

Requests for postponements or rescheduling of hearings are only granted in unusual circumstances. You should be ready to participate in your hearing on the scheduled date. Requests to postpone or reschedule a hearing must be made in writing and explain why a postponement or rescheduling is required.

**Please note: WHSCRD will not review any new evidence that has not already been previously reviewed by WorkplaceNL.**

## **The Decision**

Following a hearing, Review Commissioners will provide a written decision with reasons and may confirm, reverse, or modify a WorkplaceNL decision.

If a decision is in your favour (allowed), you should contact WorkplaceNL for details on how your decision will be implemented.

If a decision is not in your favour (denied), you may choose to proceed directly to judicial review.

## **Post Decision**

### **Reconsideration**

The reconsideration process must not be perceived as another level of review. A reconsideration of a WHSCRD decision is on-

ly granted under circumstances where a Review Commissioner has acted outside their authority or there is a significant defect in the decision making process.

Applications which merely object to the outcome or simply repeat the same argument without identifying how the decision is in error may be dismissed.

There are no forms to submit for a request for Reconsideration. You may make the request in writing to the Chief Review Commissioner within 30 days of the original WHSCRD decision.

### **Judicial Review**

If a worker or employer believes there are errors in a Review Commissioner's decision, they have a right to proceed directly to a judicial review without going through the reconsideration process. Please contact the Supreme Court of NL's General Division for information on judicial reviews.

### **Witnesses and Subpoenas**

Parties involved in a WHSCRD review may bring witnesses to the hearing to support their case. WHSCRD must be provided with written notification of witness participation at least two weeks in advance of the hearing.

To participate at the hearing, a witness should have been involved in the case under review and would have already provided information to WorkplaceNL in the form of medical reports, functional assessments, or eye-witness testimony. Witnesses cannot present new information; only elaborate on information already provided by them in the claim file.

In order to ensure the attendance of a witness, a party may request WHSCRD issue a subpoena. The Chief Review Commissioner will examine the request and determine whether it is appropriate to use the subpoena.

**It is the responsibility of the requesting party to serve the subpoena and for any fees or expenses which may be incurred in its service such as transportation, meals, professional fees, etc.**

For further information, access to WHSCRD forms, and links to pertinent sites, visit our website at:  
**[www.gov.nl.ca/whscrd](http://www.gov.nl.ca/whscrd)**

If you require additional information or assistance, please contact our office at:

**Workplace Health, Safety and  
Compensation Review Division  
2nd Floor, Dorset Building  
6 Mount Carson Avenue  
Mount Pearl, NL A1N 3K4**

**Tel: (709) 729-5542 Fax: (709) 729-6956  
Toll Free: 1-888-336-1111**

**Email: [whscrd@gov.nl.ca](mailto:whscrd@gov.nl.ca)**

### Access to Information and Protection of Privacy

WHSCRD acts in accordance with the **Access to Information and Protection of Privacy Act** (ATIPPA) 2015 to ensure that personal information is safeguarded for the review process. For more information on ATIPPA 2015 visit: [www.atippa.gov.nl.ca](http://www.atippa.gov.nl.ca)

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