

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

**6 Mount Carson Avenue
Dorset Building
Mount Pearl, NL
A1N 3K4**

Annual Report 2003

March 31, 2004

The Honourable Joan Burke
Minister of Human Resources,
Labour & Employment

Dear Minister:

We are pleased to present our 2003 Annual Report in accordance with the provisions of the Workplace Health, Safety & Compensation Act. This report covers the activities of the Workplace Health, Safety & Compensation Review Division from January 1, 2003 to December 31, 2003.

Respectfully submitted,

Eric A. Gullage
Chief Review Commissioner

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Introduction

The Workplace Health, Safety & Compensation Review Division (WHSCRD) was established in 1994 as an external review process under the Workplace Health, Safety & Compensation Act.

The statutory framework governing the operations of the WHSCRD is found in Part II of the Act, Sections 21 -37. The WHSCRD will accept Applications for Review on many issues relating to the adjudication of workers' claim, issues surrounding an employers' assessment rating and issues arising under the Early & Safe Return to Work requirements. Section 26 of the Act outlines the jurisdiction of the WHSCRD. It lists the following:

- compensation benefits;
- rehabilitation and return to work services and benefits;
- an employer's assessment;
- the assignment of an employer to a particular class or group;
- an employer's merit or demerit rating; and
- the obligations of an employer and a worker under the Early & Safe Return to Work requirements.

Pursuant to Section 28(8) of the Act, a Review Commissioner is required to communicate, in writing, their final decision on the matter under review and any order that he or she may make to the Commission within 60 days of the date of the review application.

About Us

The WHSCRD consists of eight staff, a Chief Review Commissioner and four, part-time Review Commissioners. The Chief Review Commissioner and Review Commissioners are appointed by the Lieutenant Governor in Council pursuant to Section 22 of the Act. The Chief Review Commissioner and Review Commissioners act as single adjudicators in reviewing decisions of the Workplace Health, Safety & Compensation Commission (WHSCC) to determine if the decision was made in accordance with the Act, the Regulations and Policies of the WHSCC.

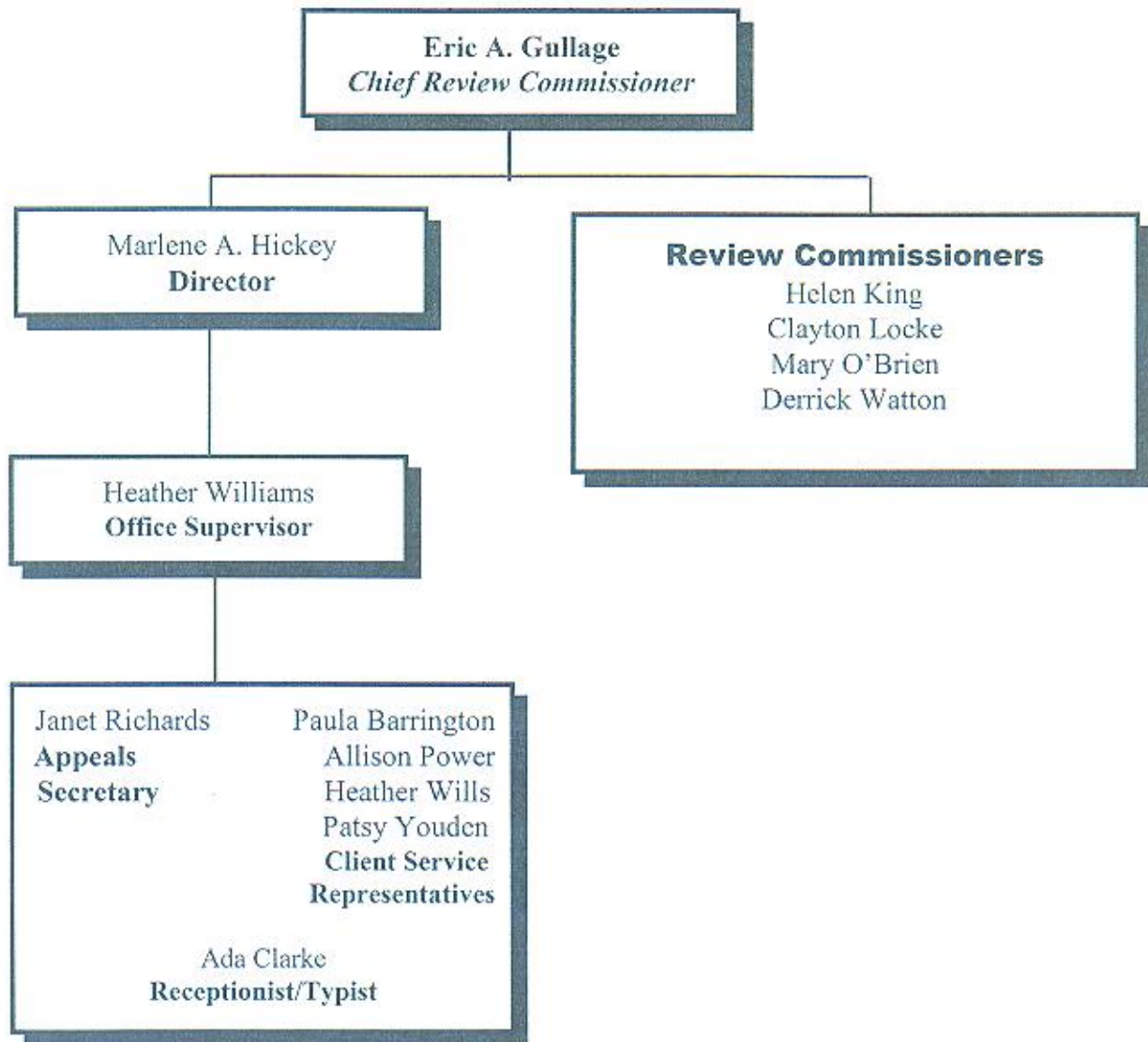
The WHSCRD is the final level of review provided by the workers' compensation system in the Province and is independent from the WHSCC.

The offices are located at 6 Mount Carson Avenue, Dorset Building, Mount Pearl, NL.

Our Goal

We are committed to providing a *timely and impartial* review process, and to ensuring decisions made reflect a thorough analysis of each case and the governing legislation.

Organizational Chart (As of December 31, 2003)



Decision Search System

The WHSCRD recognizes the ongoing need of injured workers and employers to have access to the decisions made on appeal applications.

In the 2002 Annual Report, we indicated that work had begun on the development of an on-line search system to access the decisions of the WHSCRD. In the fall of 2003, the WHSCRD launched the Decision Search System (DSS) through the Department of Labour's website.

The website contains over 2000 decisions from 1996 to 2003. The process of updating the Decision Search System is continuous. New decisions are added on a monthly basis. The Advanced Search feature allows a user to narrow down their search results and provides viewing and printing options through Adobe Acrobat.

The DSS has been extensively used since its launch. The site had received approximately 1200 hits by December 31, 2003. It can be viewed by accessing the main web page of the Labour Relations Agency under Information Retrieval Systems function and then selecting the Decision Search System.

WHSCRD Website

In 2003 the development of a WHSCRD Website had begun. The site, which will be accessible on the worldwide web by referencing www.whscrd.nf.ca is meant to provide injured workers and employers with easier access to information on the role of the WHSCRD, its processes and its procedures. It will also host information respecting previous annual reports and statistics, links and how to contact us. The DSS will also be placed on the site.

The Website is expected to be available in the spring of 2004.

Reconsideration Process

Section 28 (1) of the Act outlines the process for the Reconsideration of a decision of a Review Commissioner. To have a decision reconsidered a party must not simply disagree with the decision of the Review Commissioner but must have sufficient and reasonable grounds in order for a Reconsideration Request to be granted. For you to have reached a different opinion on the matter would not be considered reasonable grounds for a Review Commissioner to grant a Reconsideration.

A Reconsideration Application must be made to the WHSCRD within 30 days of the Review Commissioner's decision. The Reconsideration Application is provided to a different Review Commissioner for a determination as to whether or not the Application will be granted. If granted, a new hearing will be scheduled and the case will be reheard.

There were four Reconsideration Applications granted in 2003. Thirty applications were received.

<i>Reconsideration Cases</i>	year ending 2003			year ending 2002		
	Requests	Allowed	Denied	Requests	Allowed	Denied
Requested by WHSCC	13	4	7	13	4	6
Requested by Worker	16	0	15	22	3	17
Requested by Employer	1	0	1	3	0	3
Total Reconsideration Applications (3 Applications Outstanding (at Dec. 31/03))	30	4	23	38	7	26

Caseload Analysis and Statistics

APPLICATIONS FOR REVIEW

The number of Applications for Review in 2003 remained the same as it did in 2002. There were 483 Applications received. The WHSCRD carried forward 129 cases from 2002. This created a total caseload of 612 Applications for 2003. Below is a breakdown of the caseload:

<i>CASELOAD STATUS</i>	<i>2003</i>	<i>2002</i>
Appeals carried forward from previous year	129	155
New Applications	483	483
TOTAL CASELOAD	612	638
<i>Decisions Rendered</i>	<i>328</i>	<i>444</i>
<i>Cases Withdrawn</i>	<i>45</i>	<i>44</i>
<i>Cases Awaiting a Decision</i>	<i>98</i>	<i>47</i>
<i>Cases Waiting to be Heard</i>	<i>81</i>	<i>62</i>
<i>Applications Pending</i>	<i>26</i>	<i>24</i>
<i>Applications Rejected</i>	<i>34</i>	<i>17</i>

In 2003, 444 applications were filed by injured workers or their dependents; 39 applications were filed by employers.

HEARINGS

The WHSCRD regularly conducts hearings throughout Newfoundland and Labrador. In 2003 there were 381 hearings conducted by Review Commissioners. The following tables contain information relative to the hearings conducted:

<i>Hearings</i>	2003	2002
St. John's	263	311
Corner Brook	45	43
Grand Falls-Windsor	40	38
Gander	28	39
Labrador	1	1
Total	381	432

<i>Representative Profile</i>	2003	2002
Union	104	121
Legal Counsel	41	56
Member of the House of Assembly	54	67
Self	92	101
Other	88	87
Total	385	432

Employers attended and/or were represented at 69 hearings in 2003.

DECISIONS

There were a total of 328 decisions rendered in 2003.

<i>Decisions</i>	<i>2003</i>	<i>2002</i>
Denied	193	296
Allowed	109	142
Referred to WHSCC	26	6
Total	328	444

<i>DECISIONS BY REVIEW COMMISSIONER</i>	<i>TOTAL DECISIONS</i>	<i>2003</i>		
		<i>ALLOWED</i>	<i>DENIED</i>	<i>REFERRED TO WHSCC</i>
Gullage, Eric - Chief Review Commissioner	227	73	136	17
King, Helen	1	1	0	0
Locke, Clayton	46	23	21	2
O'Brien, Mary	36	4	27	5
Watton, Derrick	18	8	8	2
Total	328	109	193	26

TURNAROUND TIMES

Scheduling hearings continues to be a significant challenge for the WHSCRD as often parties are not ready to proceed and delays are unavoidable. Cases are presently being scheduled on a current basis, approximately 4-6 weeks after application.

<i>Turnaround Times</i>	<i>2003</i>	<i>2002</i>
Application to Hearing Date	2.0	2.0
Hearing Date to Decision	2.3	2.5
Total Overall Turnaround Time	4.3	4.5

SUMMARY OF ISSUES REVIEWED AND OUTCOMES

Types of Issues Reviewed in 2003	No. of Objections	Outcomes		
		Allowed	Denied	Referred to WHSCC
Worker/Dependent Appeals				
Temporary Earnings Loss Benefits	68	24	40	4
Extended Earnings Loss Benefits	63	11	43	9
Permanent Functional Impairment Awards	51	7	39	5
Recurrences	41	12	22	7
Reopenings	32	16	15	1
Medical Aid	27	16	15	1
Proportionment	20	10	10	0
Compensation Rate	9	6	3	0
Overpayments	3	2	1	0
Canada Pension Plan Benefits	5	0	5	0
Miscellaneous	10	2	8	0
TOTALS	329	106 (31%)	201 (61%)	27 (8%)
EMPLOYER APPEALS				
Objection to a Worker's Claim	4	1	3	0
Second Injury Fund Relief	3	2	1	0
Independent Operator	1	0	1	0
Early & Safe Return to Work	1	0	1	0
Underestimating Penalty	1	0	1	0
Rate Code	1	0	1	0
TOTALS	11	3 (27%)	8 (73%)	0
OVERALL TOTALS	340	109 (31%)	209 (61%)	27 (8%)
Note: Appeal Applications may raise more than one issue for review, therefore, the above numbers do not correlate with the number of Appeal Applications filed or Decisions rendered.				

SUMMARY OF HEARINGS AND DECISIONS BY MONTH

<i>Hearings & Decisions</i>	2003		2002	
	Hearings	Decisions	Hearings	Decisions
January	19	26	45	40
February	32	32	38	53
March	29	26	41	33
April	39	29	42	39
May	26	25	46	40
June	43	32	39	25
July	27	30	18	35
August	22	17	30	33
September	40	23	28	36
October	28	22	37	39
November	42	27	35	43
December	34	39	33	28
TOTAL	381	328	432	444

BUDGET 2004-2005

Salaries	\$281,400
Employee Benefits	\$3,100
Transportation & Communication	\$22,000
Supplies	\$29,000
Professional Services	\$213,900
Purchased Services	\$85,500
Property, Furnishings & Equipment	\$9,000
Information Technology	<u>\$37,500</u>
TOTAL	<u>\$681,400</u>

To Contact Us

You may reach us by mail at the following address:

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

Or you may reach us by telephone and fax at the following numbers:

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

Fax: (709) 729-6956

You can also e-mail us at: whserd@gov.nl.ca