

A REVIEW IN THE APPLICANT'S ABSENCE

The majority of *Request for Review* applications are processed using a personal hearing process. If the party requesting the review fails to attend in person, or by counsel or agent, without prior notice to the WHSCRD, the Review Commissioner may proceed to review the case, examine witnesses, and make a determination on the matter being reviewed in their absence.

Where the individual cannot or chooses not to attend the hearing, the Review Commissioner, upon request from the applicant, may proceed to conduct a full review of the file and hear from any other parties who wish to attend.

THE DECISION

All parties to the review process will be provided with a copy of the Review Commissioner's written decision. Information respecting the outcome of the case will not be discussed prior to the release of the decision. If a decision is in the applicant's favour, they must follow up with the WHSCC for action on that decision.

RECONSIDERATION PROCESS

An application for reconsideration of a WHSCRD decision may be made in writing to the Chief Review Commissioner within 30 days of receipt of a decision. The reconsideration process is not intended to be used because there is disagreement with the decision; but rather, there must be legal grounds. For further information please contact the WHSCRD office.

ADDITIONAL NOTES

- ▶ Participants at the hearing will not be reimbursed for costs associated with the hearing, such as travel expenses.
- ▶ New evidence will not be reviewed at the hearing. Any new evidence must be submitted to the WHSCC for a decision first.
- ▶ The party requesting a subpoena is responsible for any costs associated with calling witnesses.
- ▶ *Request for Review* application forms and other relevant WHSCRD forms may be obtained from the WHSCRD's office or website.
- ▶ The following pamphlets are also available: General Information, Review Process, and Employer Participation.

For further information, access to WHSCRD forms and links to pertinent sites, visit our website at: 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
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Toll Free: 1-888-336-1111



Workplace Health, Safety and Compensation Review Division

HEARING PROCESS



THE HEARING PROCESS

Once a *Request for Review* application has been accepted, all participants will be contacted by the Workplace Health, Safety and Compensation Review Division (WHSCRD) with the date, time and location of the hearing. This information will be confirmed in a letter from the WHSCRD. The WHSCRD hearings are informal and usually last between one and three hours, depending on the complexity of the issues. Attending the review hearing will be a Review Commissioner from the WHSCRD, the worker and/or their representative, and the employer and/or their representative. A representative from the Workplace Health, Safety and Compensation Commission (WHSCC) may also appear on any case they deem necessary.

THE CASE DESCRIPTION

A copy of the case description (the file of information) will be prepared for the hearing. The case description is arranged in chronological order and the pages are numbered for easy reference. The party requesting a review should be familiar with the contents of the case description and be prepared to explain in detail, to the Review Commissioner, why they believe the decision of the WHSCC is incorrect. Documents contained in the case description should also be referenced as evidence to support the claim. Also note that the case description is copied to all parties to the hearing such as the worker, the employer and the WHSCC.

ATTENDANCE

At the hearing participants may represent themselves or be represented by someone else, i.e. lawyer, consultant, union representative, M.H.A., or friend. The WHSCRD hearings are regularly held in St. John's, Corner Brook, Gander, Grand Falls-Windsor, Labrador City and Happy Valley-Goose Bay.

All participants will meet in the same room. The Review Commissioner will greet everyone and explain the hearing proceedings. The participant who has requested the review presents their case first. There may be questions from the Review Commissioner and/or other participants. Then the other participants present their case and again there may be questions. The participant who requested the review may summarize their case at the end of the hearing.

- ▶ Cellular phones must be silenced in the hearings room.
- ▶ The hearing will be recorded by the Review Commissioner. No other recording equipment is permitted.
- ▶ Dress at the hearing is informal and breaks may be taken as required.
- ▶ Please notify the WHSCRD office if special arrangements are required for the hearing.

WITNESSES

A Review Commissioner may question any witnesses called to bring evidence respecting a case. The only witnesses that should be called to testify at the hearing are those people who have already provided written documentation on the claim to the WHSCC. For example, a physician cannot be a witness unless he/she has already provided the WHSCC with a medical report.

The WHSCRD must receive written notification of any witnesses being called no less than two weeks before the hearing.

SUBPOENAS

From time to time, a party will request a subpoena to ensure the attendance of the witness. When requesting a subpoena, the name and address of the person(s) to be subpoenaed must be supplied along with the reason(s) the witness is required. Requests for a subpoena must be made no less than two weeks before the hearing.

The WHSCRD will issue the subpoena, however, the party requesting the subpoena is responsible for serving it along with any costs associated with its service.

