



YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD

SUBJECT: GENERAL & CORPORATE

POLICY NO.: GC-05-01

BOARD APPROVAL:

APPROVAL DATE: April 29, 1999

BOARD ORDER NO.:

EFFECTIVE DATE: June 1, 1999

POLICY STATEMENT

SECTION: 93(g), 96, 97

REFERENCE: 1992 Workers' Compensation Act

POLICY:

ROLE OF APPEAL PANEL COUNSEL

GENERAL INFORMATION

An appeal Panel of the Board may appoint Appeal Panel Counsel to assist the panel during the appeal process. The Appeal Panel Counsel operates under the direction of the Appeal Panel.

This policy defines the role of Appeal Panel Counsel during the appeal process.

POLICY

A. DEFINITIONS

(a) APPEAL PANEL

The appeal Panel (the panel) means the appeal body that hears appeals of Internal Review Committee decisions, of assessment decisions, and of occupational health and safety matters

(b) APPEAL PANEL COUNSEL

Appeal Panel Counsel means a lawyer appointed by the panel to assist with the appeal process.

B. DEFINITIONS

- (a) Appeal Panel Counsel shall act in a manner that fairly and objectively represents the interests of the panel and the parties.
- (b) In general, the role of Appeal Panel Counsel shall be to:
 - (i) facilitate the hearing process;
 - (ii) Advise the panel on matters of law and procedure, especially with regards to natural justice and procedural fairness;
 - (iii) Ensure all relevant evidence and argument is brought before the panel; and
 - (iv) Avoid conflict of interest and bias.

C. PRE-HEARING RESPONSIBILITIES

Before an appeal hearing, the panel may direct Appeal Panel Counsel to:

- (a) gather mutually agreed-to-statements of facts and issues to help the panel identify and clarify the issue(s);
- (b) review files, and investigate and research evidentiary matters;
- (c) inform the parties, the Presiding Officer and the panel on the admissibility of evidence;
- (d) prepare binders of law, policy and documentary evidence;
- (e) interview and schedule witnesses in advance of the hearing;
- (f) assist and guide the Appeal Registrar and the Presiding Officer to follow natural justice in pre-hearing matters such as:
 - (i) the scheduling and notification of hearings;
 - (ii) the distribution of documents; and

- (iii) disclosure;
- (g) arrange and serve subpoenas; and
- (h) inform the parties, the Presiding Officer, the Appeal Registrar and the panel members on matters of law and procedure.

D. RESPONSIBILITIES SURING THE HEARING

During an appeal hearing, the panel may direct Appeal Panel Counsel to:

- (a) inform the Presiding Officer and the panel members on:
 - (ii) natural justice;
 - (iii) matters of law and procedure;
 - (iv) calling witnesses;
 - (v) examining, re-examining and cross-examining witnesses; and
 - (vi) the admissibility of evidence presented at the hearing.
- (b) guide the panel to comply with law and policy in the interests of all parties;
- (c) call witnesses and examine them under the direction of the Presiding Officer;
- (d) ensure that all relevant evidence and argument is brought before the panel; and
- (e) summarize facts, evidence, law and policies.

E. POST-HEARING RESPONSIBILITIES

- (a) After an appeal hearing, the panel may direct Appeal panel Counsel to:
 - (i) research appropriate legislation and policies; and
 - (ii) review panel decisions upon instruction from the Presiding Officer.

- (b) Appeal Panel Counsel may ask the Presiding Officer to reconvene a panel before a decision has been rendered when Appeal Panel Counsel believes that:
 - (i) new or further evidence or testimony is necessary;
 - (ii) existing evidence requires re-examination;
or
 - (iii) natural justice or procedural fairness has not been followed.

REFERENCES

Yukon Workers' Compensation Health and Safety Board:
Reviews and Appeals Policy Statement

HISTORY

1. Policy, Appeal Panel Counsel Policy Statement, effective June 1, 1999.