



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

SUBJECT: GENERAL & CORPORATE POLICY NO.: GC - 05
BOARD APPROVAL: *[Signature]*
APPROVAL DATE: October 15, 1996
BOARD ORDER NO.: _____
EFFECTIVE DATE: October 15, 1996

POLICY STATEMENT

Revised June 1, 1999

SECTION **17, 18**
REFERENCE: **68, 97 Workers' Compensation Act**

POLICY: **14, 15, 16**
 29, 30, 31 Occupational Health and Safety Act

APPEALS

GENERAL INFORMATION

Under the Workers' Compensation Act and the Occupational Health and Safety Act, workers and employers have the right to appeal decisions made by the board, whether it pertains to a claim, an assessment matter or an occupational health and safety matter.

There are three distinct processes for appeal: one for a worker, a dependant of a deceased worker, or the worker's employer, one for employers appealing assessment decisions, and one for workers or employers appealing occupational health and safety decisions. The purpose of all three appeal processes is the same: to ensure that the decisions made by the board are fair, just and consistent with the legislation and policies under which they were made.

Appeals will be processed in a manner consistent with legislation, board policy and directives. Appellants shall be provided with the opportunity to state their case to the board in a free and uninhibited manner.

It is recognized that many people in the territory are functionally illiterate and this may limit their right to appeal a decision in writing. Despite any other section in this policy, the board may, if the board determines an appellant is functionally illiterate, accept substitutes for written notification of an appeal.

The decision of the Appeal Panel is final.

POLICY

1. CLAIMS APPEALS

Under the Workers' Compensation Act, a worker, a dependant of a deceased worker, or the worker's employer may appeal any decision concerning a claim for compensation. This includes, but is not limited to, decisions made regarding loss of earnings benefits, permanent impairments, medical treatment and rehabilitation. There are two levels of appeal in the claims appeal process, the first to the Internal Review Committee, the second to an Appeal Panel of the Board.

A. TIME LIMIT FOR APPEAL

There is no time limit for appeal.

B. FIRST LEVEL OF APPEAL

INTERNAL REVIEW

The first level of a claims appeal is the Internal Review Committee comprised of three senior staff as designated by the board.

In the absence of any of the designated senior staff, the staff person acting on their behalf may sit on the Internal Review Committee.

The Internal Review Committee shall not consider an appeal prior to the appellant receiving a written decision from the adjudicator.

The Internal Review Committee may confirm, vary or reverse any decision made in respect of a claim.

If an appellant is not satisfied with the decision of the Internal Review Committee, the appellant is entitled to appeal to the Board.

C. SECOND LEVEL OF APPEAL

APPEAL PANEL

The second and final level of appeal is to an Appeal Panel of the Workers' Compensation Health and Safety Board.

An appeal shall not be considered by an Appeal Panel prior to the appellant receiving a written decision from the Internal Review Committee.

An Appeal Panel shall be established by the chair and shall consist of one employers' representative, one workers' representative and the chair or alternate chair.

The Appeal Panel may confirm, vary or reverse the decision appealed.

2. ASSESSMENT APPEALS

Under the Workers' Compensation Act, there is only one level of appeal for assessment decisions. An employer may appeal any assessment decision to an Appeal Panel of the Board.

A. TIME LIMIT FOR APPEAL

Assessment appeals shall be made in writing to the board within one hundred and eighty (180) days of the assessment decision.

B. LEVEL OF APPEAL

APPEAL PANEL

Assessment appeals proceed directly to an Appeal Panel of the Board. An Appeal Panel shall be established by the chair and shall consist of one employers' representative, one workers' representative and the chair or alternate chair.

The Appeal Panel may confirm, vary or reverse the decision appealed.

3. OCCUPATIONAL HEALTH AND SAFETY APPEALS

OCCUPATIONAL HEALTH AND SAFETY ORDERS

The Occupational Health and Safety Act empowers safety officers to issue orders, directions or decisions specifying the means or requirements to be adopted in any place of employment for the prevention of injuries and diseases.

Under the Occupational Health and Safety Act, a safety officer conducting an inspection may issue orders, directions or decisions to ensure that work sites comply with the Occupational Health and Safety Act and Regulations.

Any order, direction, decision, or refusal to give an order which is made by the Director of Occupational Health and Safety Branch, an Officer's Chief or a Safety Officer under the Occupational Health and Safety Act may be appealed to the Appeal Panel of the Workers' Compensation Health and Safety Board.

A. TIME LIMIT FOR APPEAL

Appeals to the Board shall be made in writing and delivered to the Director of Occupational Health and Safety Branch, within twenty one (21) days of the date of the order, direction or decision of the Director, an Officer's Chief or a Safety Officer.

However, appeals to the Board pursuant to Section 15, of the Occupational Health and Safety Act, shall be delivered to the Director of Occupational Health and Safety Branch, within seven (7) days of the order, direction or decision of the Director, an Officer's Chief, or a Safety Officer.

B. LEVEL OF APPEAL

APPEAL PANEL

An Appeal Panel of the Board shall consider the appeal, and may deny or allow the appeal in whole or in part and may make an order that it considers the Director, Chief Officer, or Safety Officer ought to have made.

An Appeal Panel shall be established by the chair and shall consist of one employers' representative, one workers' representative and the chair or alternate chair.

During an appeal hearing, the following people are required to attend:

- (i) the person alleged to have contravened the Act or against whom an order is sought;
- (ii) the complainant, if any;
- (iii) the Director or his/her authorized representative; and
- (iv) any other person specified by the board.

OCCUPATIONAL HEALTH AND SAFETY ADMINISTRATIVE PENALTY APPEALS

The Occupational Health and Safety Act empowers safety officers to levy an Administrative Penalty under subsection 47(1), (2), or (3). Any Administrative Penalty levied may be appealed to the Appeal Panel of the Workers' Compensation Health and Safety Board. A notice to appeal may be delivered to the Director of Occupational Health and Safety Branch, who shall notify the Board of the appeal forthwith.

A. TIME LIMIT FOR APPEAL

Appeals shall be made in writing and delivered to the Board or the Director of Occupational Health and Safety Branch within twenty one (21) days of the alleged offender being served with notice of levy of Administrative Penalty.

When an appeal is brought before the Board, the Board shall begin its inquiry into the matter within twenty one (21) days.

B. LEVEL OF APPEAL

APPEAL PANEL

An Appeal Panel of the Board shall consider the appeal and may:

- (a) revoke the levy,
- (b) decrease the levy, or
- (c) confirm the levy.

An Appeal Panel shall be established by the chair and shall consist of one employers' representative, one workers' representative and the chair or alternate chair.

4. APPEAL PANEL

An Appeal Panel established by the chair and consisting of one employers' representative, one workers' representative and the chair or alternate chair shall hear all appeals of decisions of the Internal Review Committee, appeals of Assessment decisions and appeals of Occupational Health and Safety decisions or orders.

- (a) On receiving an appeal to the Appeal Panel the Client Advisor shall, within 5 (five) working days;
 - (i) review the appeal for clarity of the issue in dispute and completeness of information,
 - (ii) schedule a Hearing and send a registered notice to the appellant, and
 - (iii) in the case of Claims appeals, send registered notification to any other involved parties.
- (b) The Client Advisor shall notify all involved parties, by phone and by "Registered Hearing Notice", of the date, time and location of a hearing at least 10 (ten) working days prior to the hearing date.
- (c) The Appeal Panel shall hear Claims and Assessment appeals within 30 (thirty) working days of receipt of the appeal by the Client Advisor.
- (d) The Appeal Panel shall hear Occupational Health and Safety appeals within 21 (twenty one) working days of receipt of the appeal by the Client Advisor (OH&S Act, section 30.(1)).
- (e) If new evidence is requested by the Appeal Panel, the Appeal Panel shall adjourn the hearing pending delivery of the requested new evidence.
- (f) On receiving the requested new evidence the Client Advisor shall notify all involved parties, by phone and in writing, of;
 - (i) the receipt of this evidence,
 - (ii) their right under the Act to access this evidence, and
 - (iii) the scheduled date the Panel will reconvene the hearing.
- (g) A decision shall be rendered in writing and mailed to the involved parties. The Appeal Panel shall endeavour to render its written decision within 10 (ten) working days of the date of the hearing.
- (h) Under some circumstances, it may be necessary for the Appeal Panel to delay the decision beyond the 10 (ten) working days time frame. Every effort shall be made to keep exceptions to a minimum.

REFERENCES

Yukon Workers' Compensation Health and Safety Board:
OH&S - Penalties Policy Statement
Illiteracy Policy Statement

HISTORY

1. **Worker's Compensation Act, Chapter 16**, in force January 1, 1993.
2. Policy, Appeals Policy Statement, effective February 16, 1994.
3. Policy, Appeals Policy Statement, amended September 10, 1996;
effective October 15, 1996.