



YUKON WORKERS'
 COMPENSATION
 HEALTH AND
 SAFETY BOARD

SUBJECT: APPEALS POLICY NO.: GC - 05
 BOARD APPROVAL: [Signature]
 APPROVAL DATE: 94-02-16 [Signature]
 BOARD ORDER NO.: _____
 EFFECTIVE DATE: 94-02-16

POLICY STATEMENT

"NEW" AMENDED -1994/02/16

Revised October 15, 1996

SECTION
REFERENCE:

POLICY:

17, 18
 68, 97 Workers' Compensation Act
 16, 29 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 workers, dependants of deceased workers or employers appealing a claims decision, one for employers appealing assessment decisions, and one for workers or employers appealing occupational health and safety decisions. The purpose of all three appeal systems 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 of making their position known to the board in a free and uninhibited manner.

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 an employer may appeal any decision made concerning a claim for compensation. This includes, but is not limited to, decisions made regarding wage loss benefits, 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 to a body of senior managers, called the Internal Review Committee. The Internal Review Committee consists of three of the following as determined by the President:

1. Director of Assessments
2. Director of Occupational Health and Safety
3. Director of Finance and Administration
4. Director of Policy, Planning and Evaluation

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

The Internal Review Committee may confirm, vary or reverse any decision made in respect of the 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 cannot be considered by an Appeal Panel prior to the appellant receiving a decision from the Internal Review Committee.

An Appeal Panel consists of one representative of employers, one representative of workers and a neutral chair.

The Appeal Panel has the authority to 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 must be made in writing to the board within 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 consists of one representative of employers, one representative of workers and a neutral chair.

The Appeal Panel has the authority to confirm, vary or reverse the decision under appeal.

3. OCCUPATIONAL HEALTH AND SAFETY APPEALS

OCCUPATIONAL HEALTH AND SAFETY ORDERS

The Occupational Health and Safety Act empowers safety officers to issue orders and directions 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 or directions either orally or in writing to ensure that work sites comply with the act and regulations.

Any decision, order, or refusal to give an order which is made by the Director of Occupational Health and Safety, a Chief Officer or a Safety Officer under the Occupational Health and Safety Act may be appealed. There are two levels of appeal, the first to the **Director, Occupational Health and Safety**, the second to the Workers' Compensation, Health and Safety Board's **Appeal Panel**.

A. **TIME LIMIT FOR APPEAL**

Appeals to the Director, Occupational Health and Safety, must be made in writing and delivered to the Director within 7 days of the decision or order of a Chief Officer or Safety Officer.

Appeals to the Board must be made in writing and delivered to the Director, Occupational Health and Safety within 21 days of the date of the direction or decision of the Director, Chief Officer or Safety Officer.

B. **FIRST LEVEL OF APPEAL**

DIRECTOR, OCCUPATIONAL HEALTH AND SAFETY

Employers, workers and labour unions may appeal occupational health and safety decisions to the Director, Occupational Health and Safety.

C. SECOND LEVEL OF APPEAL

APPEAL PANEL

An Appeal Panel of the Board will 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 consists of one representative of employers, one representative of workers and a neutral 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 Workers' Compensation Health and Safety Board. A notice to appeal may be delivered to the Director, Occupational Health and Safety, who shall notify the Board of the appeal forthwith.

A. TIME LIMIT FOR APPEAL

Appeals to the Board must be made in writing and delivered to the Director, Occupational Health and Safety, within 21 days of the alleged offender being served with notice of levy of Administrative Penalty.

B. LEVEL OF APPEAL

APPEAL PANEL

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

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

An Appeal Panel consists of one representative of employers, one representative of workers and a neutral chair.