

Workers Compensation Board - Appeal Commission

Full-Time Appeal Commissioners

Chief Appeal Commissioner – Public Interest

Karen Dyck, La Salle (bil.) ^

Workers

Mark Kernaghan, Winnipeg

Employers

Paul Challoner, Headingley

Public Interest

M. Lynne Harrison, Winnipeg (bil.) ^

Part-Time Appeal Commissioners

Public Interest

Karen Wittman, Winnipeg (bil.) ^

Christian Monnin, Winnipeg (bil.) ^

Kimberley Gilson, East St. Paul ^

Barry Hartley, Winnipeg ^

Workers

Edward (Dale) Neal, Winnipeg

Marc Payette, Winnipeg (bil.)

Bob Ripley, Winnipeg

Phil Kraychuk, Oakbank

Shauna Briscoe, Winnipeg

Employers

Jim Witiuk, Winnipeg

Ron Hambley, Winnipeg

Jane MacKay, Winnipeg ^

Danielle Loewen, Winnipeg (bil.)

Renae Campbell, Winnipeg (bil.)

^ Government Appointed

Mandate:

Under the general supervision of the Chief Appeal Commissioner, an appeal commissioner participates as a member of a tripartite panel to consider issues under appeal and to render fair decisions based on the evidence before the panel. Decisions are made in accordance with *The Workers Compensation Act*, its regulations and policy as established by the Board of Directors and in a manner consistent with the rules of natural justice and common law as it relates to quasi-judicial tribunals.

Authority:

The Workers Compensation Act

Responsibilities:

The WCB Appeal Commission previews file documentation on cases referred by the Chief Appeal Commissioner prior to the panel convening. Participates as a member of a tripartite panel either in a review meeting of the panel or through attendance at hearings as a panel member. Solicits and obtains information or clarification relevant to the issue(s) under appeal, either from individuals providing evidence at the hearing or through soliciting medical reports or such information as is appropriate to the case from parties to the appeal, expert witnesses, the WCB or others. Considers the relative weight of the medical and other evidence and information pertinent to the case under consideration. Determines the effects of applicable sections of The Workers Compensation Act, regulations and policies of the Board of Directors to the case under appeal. Considers the evidence in the appeal and discusses this with other panel members. Reaches a fair and objective decision as to the issue(s) under appeal and provides rationale in support of his or her decision, whether in agreement with the majority of the panel or not. Reviews and signs the written decision of the panel to verify it as an accurate record of the disposition of the appeal.

Membership:

The Workers Compensation Act establishes the Appeal Commission and provides for the appointment of commissioners as follows:

- a) One or more appeal commissioners representative of the public interest, one of whom shall be designated as Chief Appeal Commissioner;
- b) One or more appeal commissioners representative of workers;
- c) One or more appeal commissioners representative of employers.

By legislation, members of the Board of directors or employees of the WCB are ineligible to be appeal commissioners.

Length of Terms:

The Chief Appeal Commissioner and the appeal commissioners are appointed for the term fixed in the order appointing them, which must not exceed five years or be less than two years.

If an appeal commissioner resigns or the appointment expires, the Chief Appeal Commissioner may authorize that individual to continue to exercise the powers of an appeal commissioner in any proceeding over which that individual had jurisdiction immediately before the end of the term. The authorization continues until a final decision in that proceeding is made.

Desirable Experience:

An appeal commissioner must have a comprehensive knowledge of *The Workers Compensation Act* of Manitoba, as well as the regulations and WCB policies. The commissioner must also be able to combine this knowledge with an ability to deal with complex technical and evidentiary issues. This knowledge assists them in reaching a non-partisan decision that is consistent with the legislation and policies, and is at the same time reflective of the individual facts of each case.

A qualified appeal commissioner will possess several, but not usually all, of the following qualifications:

- Knowledge of administrative law and the principles of natural justice;
- Experience as an adjudicator in some type of mediation or quasi-judicial function or familiarity with quasi-judicial proceedings;
- Ability to comprehend medical, legal and other technical issues quickly;
- Demonstrated capability of making objective decisions within legislative and policy parameters and of supporting his or her decision with concise rationale;
- Demonstrated communication skills – articulate speaker, good listener, and excellent writing skills to effectively communicate in clear and concise language;
- A comprehensive understanding of the workers compensation system obtained through some direct involvement in the system is highly desirable;
- Practical knowledge of work sites, workplace environments, and type of work related injuries;
- Knowledge of the principles of injury compensation, occupational safety and health, or WCB assessments are assets.

Time Commitment:

Time commitment can be variable depending on the workload, but each part-time commissioner could be allocated to sit on one or two panels per month. Hearings can be from two hours to several days long, but the average hearing lasts approximately two hours, followed by a panel meeting of approximately one hour. Preparation time for a hearing depends on the complexity of the file and the issues to be decided, but averages between two to five hours.

Meetings:

Frequency: Part-time: 1-2 panels per month.

Full-time: Varies depending on workload

Location: Hearings are held in the City of Winnipeg.

Duration: Approximately two hours, followed by a panel meeting of approximately one hour

Remuneration:

Full-time appeal commissioners

Remuneration for full-time appeal commissioners is based on the Province of Manitoba Senior Officer scale, along with participation in benefit plans established for the WCB.

Part-time public interest commissioners

Part-time appeal commissioners who serve as presiding officer in the conduct of an appeal panel, shall be paid on the basis of \$55.00 per hour for time spent in the hearings and meetings. The commissioner will also be paid for reasonable preparation and decision writing time, as well as travel and other expenses properly incurred in the performance of their duties as members of the Appeal Commission, as approved by the Chief Appeal Commissioner.

Part-time worker or employer commissioners

Part-time appeal commissioners representative of workers and employers shall be paid on the basis of \$40.00 per hour for time spent in the hearings or reviews and meetings. The part-time appeal commissioners will also be paid for reasonable preparation time, as approved by the Presiding Officer, as well as travel and other expenses properly incurred in the performance of their duties as approved by the Chief Appeal Commissioner.