

Appealing a Workplace Safety and Insurance Decision

If the Workplace Safety and Insurance Board (WSIB) denies or terminates your claim and you do not agree with the decision, you have the right to appeal. There are definite appeal time limits that need to be met according to the issue under dispute. **Failure to meet the appeal deadlines will prevent you from proceeding with your appeal.**

What are the Appeal Time Limits?

The time limits to appeal a written WSIB denial letter should be indicated at the end of the denial letter and are calculated using the date of the decision letter. The time limits to appeal are:

- 30 days for return to work disputes
- 6 months for all other appeals

How do you appeal a WSIB Denial?

When you receive a negative decision from the WSIB decision maker that you do not agree with, you must complete and submit the WSIB Intent to Object (ITO) Form. This form is available from the WSIB website at <https://www.wsib.ca/en/forms#Object> or you can write to the WSIB and they will forward you a blank copy. While we recommend you complete and submit the WSIB ITO form you can send a letter explaining what decision you are objecting to and why if you cannot find the form. Failure to submit the Intent to Object Form within the prescribed time limits will result in a loss of the right to appeal the denial.

A decision letter may contain multiple decisions on more than one issue. You should indicate the issue(s) you are objecting to and clearly indicate the date of the decision letter that addresses that issue. If you disagree with decisions made in more than one claim, you must submit an Intent to Object Form under each claim in order to meet the objection time limits. When completed, the ITO Form should be faxed, uploaded online or mailed directly to the WSIB. Follow up with the decision maker prior to the appeal deadline to confirm receipt of your completed ITO Form.

Upon receipt, the WSIB will review the Intent to Object Form and reconsider their decision if any new information is provided. The decision maker may confirm, amend or revoke the decision. The WSIB will advise you of the outcome of their review. If the decision to deny remains unchanged, you will be sent a copy of your WSIB claim file with a new form called the Appeal Readiness Form.

The Appeal Readiness Form should only be submitted when the decision maker in Operations has considered all the information related to the issue(s) under dispute and you are ready to proceed to a hearing at the Appeals Services Division (ASD). It is recommended that you seek the advice and/or

assistance from a representative prior to submitting the Appeal Readiness Form. **OPSEU/SEFPO cannot go on record as your representative until we have reviewed your file and a Retainer is completed.** If OPSEU/SEFPO agrees to represent you in your appeal, and you agree to the Retainer, the OPSEU/SEFPO representative will complete and submit the Appeal Readiness Form on your behalf. Please refer to *WSIB Fact Sheet # 3 WSIB Appeals Assistance* for more information.

The Appeals Readiness Form will require you to indicate your preferred method of resolution (Hearing in Writing or Oral Hearing). If you request an Oral Hearing, you will need to provide reasons why you think one is necessary. You may or may not be allowed an oral hearing. This will be determined by the Appeals Services Division (ASD) staff and you will be advised of their decision. The decision to deny an oral hearing cannot be appealed. Since the COVID 19 pandemic of March 2020 and resulting suspension of in-person hearings both the WSIB and WSIAT have offered hearings via teleconference or video conference. It has been confirmed that these options will continue to be available after the pandemic ends.

If the ASD decides an oral hearing is necessary, they will attempt to schedule one to be held within 90 calendar days after they confirm an oral hearing is required.

If the ASD decides your hearing will be dealt with by written submissions, you will be sent a letter and asked to forward any further submissions within 30 days (plus 5 days for mailing). The file will be forwarded to an Appeals Resolution Officer (ARO), and a written decision will be made based on the information on file and any additional submissions made within the deadline.

The Appeals Resolution Officer will either allow the appeal or uphold the original decision. You will receive the Appeals Resolution Officer's decision in writing. This final WSIB decision can be appealed to the Workplace Safety and Insurance Appeals Tribunal (WSIAT).

How do I appeal to the Workplace Safety and Insurance Appeals Tribunal?

You can appeal the Appeals Resolution Officer's (ARO) decision to the final level of appeal at the Workplace Safety and Insurance Appeals Tribunal (WSIAT). You must complete the WSIAT Notice of Appeal form and return it to the WSIAT **within 6 months** of the date of the final WSIB decision. The Appeals Resolution Officer's (ARO) decision must also be attached to the Notice of Appeal form.

The Notice of Appeal is available on the WSIAT site – <https://www.wsiat.on.ca/en/forms/index.html>. You can mail, fax or e-file the Notice of Appeal form and the ARO decision to WSIAT. You should keep a copy of the transmittal verification for your records. You may wish to follow up with the WSIAT to ensure they have received the WSIAT Notice of Appeal form.

WORKER SAFETY UNIT

WSIB FACT SHEET #2

Decisions made at the WSIAT level are final.

For more information on obtaining assistance, please see *WSIB Fact Sheet # 3 WSIB Appeals Assistance*.

Contact Us

To contact **OPSEU/SEFPO Worker Safety Unit**, email workersafety@opseu.org or call **1-800-268-7376 extension 3561**.

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