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COCA Update on WorkSafeBC Activities #547 November 5, 2012

The following column from COCA appeared in the Journal of Commerce

November 5, 2012

Know and exercise your right to appeal

View from the Board | Grant McMillan

When WorkSafeBC makes a decision on a workers' claim, the employer has the right to appeal that decision. Here is what you need to know about your rights.

There are two levels of appeal:

The first level is to the Review Division; there is a 90 day time limit on making an appeal (from the date of the WorkSafeBC decision).

The second – and final – level of appeal is to the Workers' Compensation Appeal Tribunal (WCAT). It has a 30 day time limit from the date of the WorkSafeBC decision.

The appeal system is used almost exclusively by workers. About 75 per cent of appeals to the Review Division and about 90 per cent of appeals to the WCAT are from workers.

Employers have traditionally either not known about or not wanted to pursue claims appeals. When the employer starts an appeal on a claim, the employer is then entitled to disclosure on the claim file. The employer is also entitled to this disclosure when the worker appeals a claim.

If your worker is on compensation and you have not received a decision letter, you can request a letter from WorkSafeBC to explain the claim.

Disclosure is free on request. The entire file is photocopied or placed on a computer disk and mailed to the employer. However, sensitive personal information including medical information will be destroyed by WorkSafeBC if it is not determined to be relevant to the issues of the claim.

To request a copy of the claim file, complete the [appeal form](#) from the Review Division or the Workers' Compensation Appeal Tribunal and indicate that you would like a copy of the file. The appeal forms are available at <http://www.worksafebc.com> by clicking on "Review and Appeal".

If you're appealing a decision, request the file immediately after submitting your notice of appeal to avoid any delays.

The appeal process may take several days of your time but the claim may be worth several hundred thousand dollars. The time taken is a good investment.

You should appeal if you think that a claim decision is wrong.

This may include:

- The worker was hurt off the job
- The worker had only a minor injury and can work
- The wage loss has gone on for too long
- The worker is not cooperating with a return to work program
- There should not be a disability pension
- There should not be a loss of earnings pension
- The pension amount is not based on accurate wage information

WorkSafeBC also has a provision that allows the Case Manager to change the decision within 75 days. You can request this review directly through the case manager.

The fact that you are discussing the decision with WorkSafeBC and asking for a different decision within that 75 day period will not stop the clock on the 90 limit for appealing to the Review Division.

The appeal process helps to ensure that workers' compensation is used solely for worked-related injuries and diseases and only for the amount of time that is required for recovery from a work-related injury or disease.

The Employers' Adviser can help with your appeal – at no cost to you. The Employers' Adviser office can be reached at: 1-800-925-2233.

Exercising your right of appeal is a legitimate check and balance upon the workers' compensation system.

Grant McMillan is the president of the Council of Construction Associations (COCA), which represents the interests of 16 construction associations in B.C. on WorkSafeBC matters. Grant is also a member of the Journal of Commerce Editorial Advisory Board. Send comments or questions to editor@journalofcommerce.com.

This column can be found online at:

<http://www.joconl.com/article/id52608/--know-and-exercise-your-right-to-appeal>