

Workplace Health Safety and Compensation Review Division



Annual Report 2008



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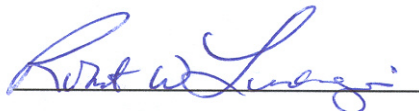
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MESSAGE FROM THE CHIEF REVIEW COMMISSIONER

Pursuant to the requirements of s.30 the *Workplace Health, Safety and Compensation Act* (the *Act*), I am pleased to present the Workplace Health, Safety and Compensation Review Division's (the WHSCRD) 2008 Annual Report. The WHSCRD and Chief Review Commissioner are responsible for the preparation of this report and are accountable for the results contained within it.

This report covers the activities of the WHSCRD from January 1, 2008 to December 31, 2008. An additional report, as required by the *Transparency and Accountability Act*, will be prepared to report on the WHSCRD's progress with respect to its activities for the 2008-2009 fiscal year.

The WHSCRD is committed to service excellence in the delivery of its services to workers, employers, and others involved in the review process. I would like to thank the staff and Review Commissioners of the WHSCRD for their exceptional dedication and professionalism throughout this past year.



Robert W. Lundrigan
Chief Review Commissioner

OVERVIEW

INTRODUCTION

The WHSCRD is the final level of review within the workers' compensation system in Newfoundland and Labrador. The WHSCRD is responsible for the review of decisions of the Workplace Health, Safety and Compensation Commission (the WHSCC). The WHSCRD may review such issues as:

- ◆ compensation benefits,
- ◆ rehabilitation and return to work services and benefits,
- ◆ employer's assessments,
- ◆ the assignment of an employer to a particular class or group,
- ◆ an employer's merit or demerit rating,
- ◆ and the obligations of an employer and a worker with respect to return to work and rehabilitation issues.

REVIEW COMMISSIONERS

The WHSCRD has a Chief Review Commissioner and may have a panel of up to six Review Commissioners appointed to the WHSCRD. There are currently three Review Commissioners appointed including the Chief Review Commissioner. Review Commissioners conduct hearings in St. John's, Gander, Grand-Falls Windsor, Corner Brook, Happy Valley-Goose Bay and Labrador City.

THE WHSCRD STAFF

The WHSCRD employs nine staff in its office located in the Dorset Building, at 6 Mount Carson Avenue in Mount Pearl, NL.

MANDATE

The mandate of the WHSCRD is to review decisions of the WHSCC to ensure compliance with the *Act* and *Regulations*, as well as with the policies of the WHSCC. The WHSCRD is also mandated to direct appropriate remedies where necessary.

OVERVIEW (CONT.)

VISION

The vision of the WHSCRD is an environment where workers and employers participate in an independent, timely and fair review process anchored in a culture of exceptional client service.

VALUES

Initiatives that provide for continuous improvements in the area of client service remains a priority for the WHSCRD. The WHSCRD provides timely frontline services to its clients in an environment which is respectful, professional and free of bias. The core values of independence, respect and professionalism guide the staff of the WHSCRD on a daily basis.

LEGISLATION

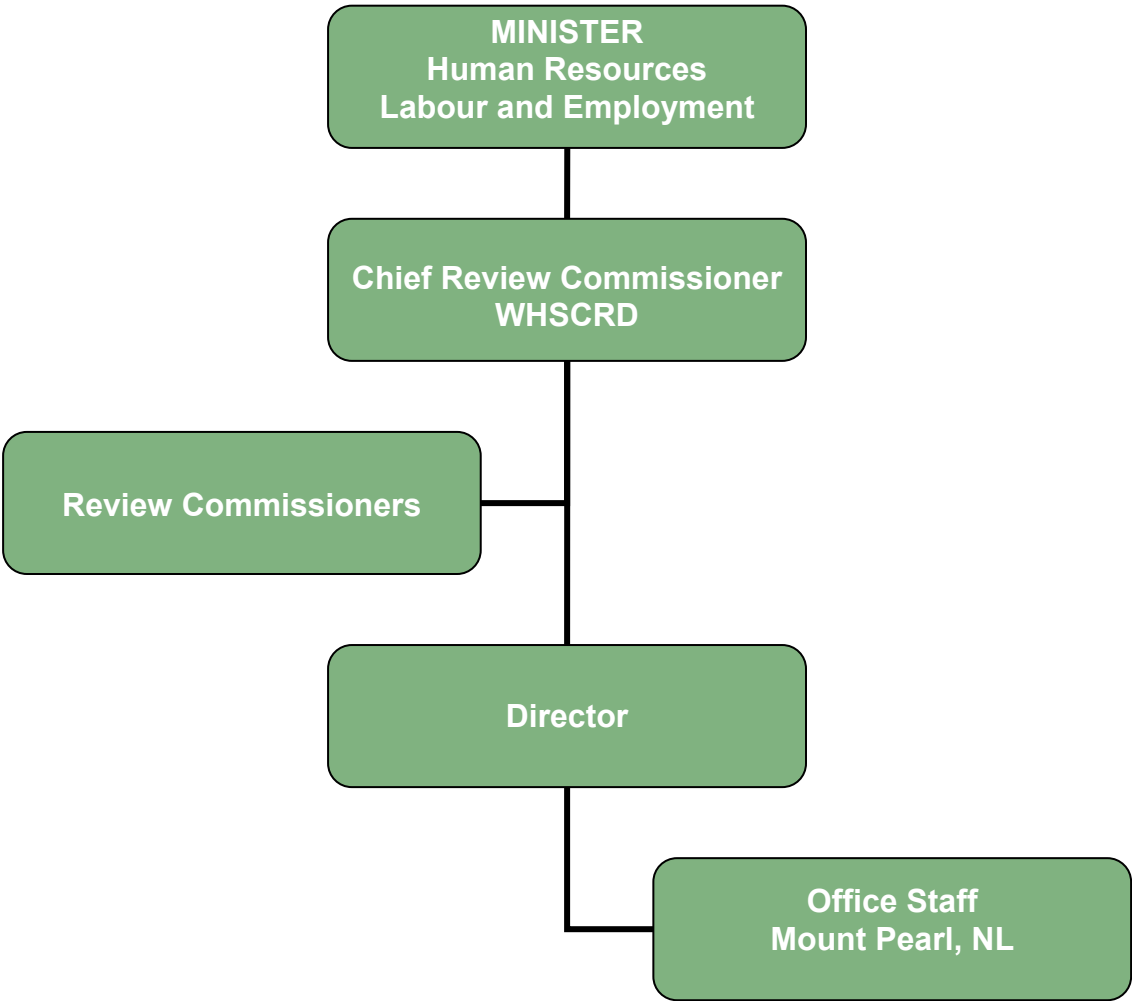
The *Workplace Health, Safety and Compensation Act*, RSNL1990 CHAPTER W-11, Part II – Appeals, Sections 21 to 37 provide the legislative provisions for the WHSCRD.

LINES OF BUSINESS

The WHSCRD offers the following services to its clients:

- I. REVIEW OF WHSCC DECISIONS: The WHSCRD processes review applications submitted by injured workers, their dependants and employers in the province, as well as coordinates a review process that includes a hearing before a Review Commissioner.
- II. INFORMATION SERVICES: The WHSCRD provides information services to its clients by providing web-based distribution of its decisions; researching workers' compensation issues and collecting and maintaining statistical information relative to the review process.

ORGANIZATION CHART



2008 HIGHLIGHTS AND ACCOMPLISHMENTS

The WHSCRD in 2008 examined many of its internal operational processes to determine how to further provide enhanced client services. In addition, as a result of various planning processes the WHSCRD also identified other areas for providing enhanced client services. At the completion of these exercises, the following were noted as highlights and accomplishments for 2008:

- ◆ The WHSCRD prepared its 2008-2011 Three Year Activity Plan focusing on the creation and enhancement of a client service framework to provide workers and employers with the effective tools and processes to assist in their participation within the review process.
- ◆ The WHSCRD, in accordance with the *Transparency and Accountability Act* and based on Government's fiscal reporting schedule, also published its first 2007-2008 Annual Performance Report in 2008. This report focused on the progress made with respect to the goals and measures outlined in the 2007-2008 Activity Plan.
- ◆ The WHSCRD examined workers' compensation appeal entities across Canada and conducted jurisdictional analysis of methods of appeal, processing time frames, case management practices, and advocacy groups to ensure consistent application of its guidelines and requirements to assist in the development of a draft Practice Manual.
- ◆ A series of pamphlets were developed to provide information respecting WHSCRD processes. The pamphlets outline the procedures for an external review and consist of: *General Information*, *The Review Process*, *Employer Participation*, and *The Hearing Process*.
- ◆ The WHSCRD revised its website to provide increased access to information and research tools. The website includes access to downloadable WHSCRD forms, informative pamphlets on the review process, WHSCRD publications and statistics, as well as links to other pertinent sites. The revised website will be available in 2009 at www.gov.nl.ca/whscrd.

2008 HIGHLIGHTS AND ACCOMPLISHMENTS (CONT.)

- ◆ In 2008, 338 Request for Review Applications were filed and 266 hearings were held. In addition, the WHSCRD staff also coordinated work for an additional 91 hearings which were either postponed or rescheduled by parties.
- ◆ Workers filed 308 Request for Review Applications.
- ◆ Employers filed 30 Request for Review Applications.
- ◆ The WHSCRD provided decisions on 254 cases.
- ◆ There were 23 requests for reconsideration of decisions filed in 2008. Three requests were granted.
- ◆ The WHSCRD continually monitors its caseload to ensure wait times for decisions are minimal. The average wait time to receive a decision following a hearing remained 30 days in 2008 as in 2007.

2008 CASELOAD STATISTICS

Caseload January 1, 2008 to December 31, 2008		
Caseload	2008	2007
Appeals Carried Forward	120	115
New Applications	338	325
Total Caseload	458	440
Decisions Rendered	254	275
Cases Withdrawn	41	31
Cases Awaiting a Decision	32	21
Cases Waiting to be heard	84	83
Applications Pending	*38	17
Applications Rejected	9	13

*Note: By request, 13 cases are on hold

Monthly Hearings and Decisions January 1, 2008 to December 31, 2008				
Hearings and Decisions	2008		2007	
	Hearings	Decisions	Hearings	Decisions
January	15	18	28	12
February	16	18	13	25
March	24	11	28	17
April	22	35	21	22
May	28	20	43	24
June	22	14	17	23
July	19	33	19	27
August	14	10	17	34
September	17	22	27	14
October	34	29	31	12
November	27	17	23	39
December	28	27	21	26
Total	266	254	288	275

Decisions by Type January 1, 2008 to December 31, 2008		
Decisions	2008	2007
Denied	115	129
Allowed	104	106
Referred to WHSCC	35	40
Total	254	275

2008 CASELOAD STATISTICS (CONT.)

ISSUES SUMMARY BY DECISION January 1, 2008 to December 31, 2008				
TYPE OF ISSUES REVIEWED	OUTCOME			
Worker/Dependent Appeals	Objections	Allowed	Denied	Referred to WHSCC
Canada Pension Plan	2	2	0	0
Claim Denied	27	12	11	4
Compensation Denied	6	4	2	0
Compensation Rate	9	3	5	1
Dependency Benefits	2	2	0	0
Early & Safe Return to Work	2	0	2	0
Extended Earnings Loss Benefits	47	22	16	9
Hearing Loss	14	3	8	3
Industrial Disease	1	0	0	1
Labour Market Re-entry	21	12	6	3
Medical Aid	42	21	16	5
Other	16	4	11	1
Overpayment	1	1	0	0
Permanent Functional Impairment	45	11	25	9
Permanent Partial Disability	4	2	1	1
Proportionment	12	7	4	1
Re-employment Obligations	2	0	2	0
Recurrence	17	10	4	3
Reinstatement of Benefits	6	2	4	0
Reopening	10	5	5	0
Total	286	123 (43%)	122 (43%)	41 (14%)
Employer Appeals	Objections	Allowed	Denied	Referred to WHSCC
Assessment Rate	2	1	1	0
Cost Relief	7	4	2	1
Objection to a Worker's Claim	8	0	6	2
Other	2	1	1	0
Total	19	6 (32%)	10 (53%)	3 (16%)
OVERALL TOTALS	305	129 (42%)	132 (43%)	44 (14%)

Note: Review Applications may raise more than one issue for review, therefore, the above numbers
May not correlate with the number of Review Applications filed or Decisions rendered.

2008 CASELOAD STATISTICS (CONT.)

Hearings by Region January 1, 2008 to December 31, 2008		
Region	2008	2007
St. John's	173	186
Gander	11	25
Grand Falls-Windsor	34	37
Corner Brook	44	40
Labrador	4	0
Total	266	288

Representative Profile on Active Cases January 1, 2008 to December 31, 2008		
REPRESENTATIVE	2008	2007
Worker Consultant	15	20
Worker (Self-Represented)	74	110
Employer Consultant	46	30
Employer (Self-Represented)	5	5
WHSCC	88	150
Legal Counsel	23	21
Union	92	69
Members of the House of Assembly	89	61
Other (Relative, Friend, etc.)	48	36
Total	480	502

Reconsideration Requests January 1, 2008 to December 31, 2008						
Reconsideration Cases	2008			2007		
	Requests	Allowed	Denied	Requests	Allowed	Denied
Employer Request	2	0	2	2	0	2
Worker Request	13	1	12	13	0	13
WHSCC Request	8	2	5	15	5	10
Total	23	3	19	30	5	25

ANNUAL BUDGET

	<u>2008/2009</u>	
	<u>Actuals</u>	<u>Budget</u>
	\$	\$
8.1.01. Workplace Health, Safety and Compensation Review		
01. Salaries	417,900	490,700
02. Employee Benefits	1,000	2,500
03. Transportation and Communications	37,000	20,000
04. Supplies	22,500	22,500
05. Professional Services	210,000	320,500
06. Purchased Services	128,000	120,500
07. Property, Furnishings and Equipment	<u>8,000</u>	<u>8,000</u>
	<u>824,400</u>	<u>984,700</u>
02. Revenue - Provincial	<u>(1,124,000)</u>	<u>(950,100)</u>
Total: Workplace Health, Safety and Compensation Review	<u>(299,600)</u>	<u>34,600</u>

Source: 2009-10 Estimates of the Program Expenditure and Revenue of the Consolidated Revenue Fund

REVIEW COMMISSIONERS

Robert W. Lundrigan, Chief Review Commissioner

Mr. Lundrigan was appointed as Chief Review Commissioner in January 2005. Prior to that time, he spent 27 years in the province's educational system, 20 of which as a school principal in three different communities. He began his career in education after serving three years with the Newfoundland and Labrador Housing Corporation in St. John's. Mr. Lundrigan received his postsecondary education at Memorial University of Newfoundland, graduating with undergraduate degrees in Arts and Education followed by a Master of Education degree in 1989. He was an active member of the School Administrator's Council and served as chairperson and/or a member of numerous school districts and provincial committees in the education field. Additionally, Mr. Lundrigan served as a municipal councilor from September 1997 up to September 2005.

Alex Harrold, Review Commissioner

Mr. Harrold is a resident of Westport. He has served as a Review Commissioner since 2005. He has a Bachelor of Science degree from Southwest Missouri University and a Bachelor of Laws degree from Dalhousie University. Mr. Harrold is a former teacher who taught at Baie Verte High School and he has also worked with the Department of Justice. Mr. Harrold has also been a member of the Baie Verte Peninsula Health Care Board and is a former provincial Vice-President of the Multiple Sclerosis Society of Canada.

E. Bruce Peckford, Review Commissioner

Mr. Peckford is a resident of St. John's. He is a retired provincial public servant who has held several senior positions with the public service, including Deputy Minister of Social Services, Deputy Minister of Works Services and Transportation, Assistant Secretary of the Treasury Board Secretariat, and Executive Director of Finance and Administration with the Workplace Health, Safety and Compensation Commission. Mr. Peckford is the past Chair of the Eastern School District and Board member of the Historic Sites Association of Newfoundland and Labrador and a former Board member of the Canadian Cancer Society, Newfoundland and Labrador Division. He has most recently served as Chair of the Workplace Health, Safety and Compensation Commission Statutory Review Committee.

CONTACT THE WHSCRD

Workplace Health Safety and Compensation Review Division

2nd Floor, Dorset Building
6 Mount Carson Avenue
Mount Pearl, NL
A1N 3K4

TEL: (709) 729-5542 FAX: (709) 729-6956

TOLL FREE: 1-888-336-1111

E-MAIL: whscrd@gov.nl.ca

**Workplace Health Safety and Compensation
Review Division**

**2nd Floor, Dorset Building
6 Mount Carson Avenue
Mount Pearl, NL
A1N 3K4**

