

# ***WORKPLACE HEALTH, SAFETY AND COMPENSATION REVIEW DIVISION***



***ANNUAL REPORT 2006***



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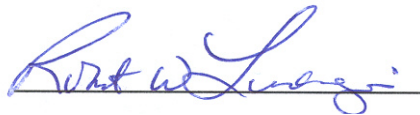
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# MESSAGE FROM THE CHIEF REVIEW COMMISSIONER

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In accordance with the Workplace Health, Safety and Compensation Review Division's (the Review Division) compliance with the *Transparency and Accountability Act* and the provisions of the *Workplace Health, Safety and Compensation Act*, I am pleased to present the Review Division's 2006 Annual Report. I and the Review Division are responsible for the preparation of this report and are accountable for the results contained within it. This report covers the activities of the Review Division from January 1, 2006 to December 31, 2006.

The Review Division 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 Review Division for their outstanding dedication and professionalism throughout this past year in helping to achieve this commitment.



**Robert W. Lundrigan**  
Chief Review Commissioner

# OVERVIEW

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## INTRODUCTION

The Review Division is the final level of review within the workers' compensation system in Newfoundland and Labrador. The Review Division is responsible for the review of decisions of the Workplace Health, Safety and Compensation Commission (the Commission). The Review Division 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.

## **MANDATE**

The mandate of the Review Division is to review decisions of the Commission to ensure compliance with the *Workplace Health, Safety and Compensation Act* (the *Act*) and *Regulations*, as well as with the policies of the Commission. The Review Division is also mandated to direct appropriate remedies where necessary.

## **VISION**

The vision of the Review Division 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**

The Review Division promotes exceptional client service in an environment where stakeholders are provided with respectful service in a professional manner that is equitable and free of bias, and where employees are supported in their professional and individual pursuits. The core values of independence, respect and professionalism guide the staff of the Review Division 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 Review Division.

## **LINES OF BUSINESS**

The Review Division offers the following services to its clients:

- 1. Review of decisions of the Commission.** The Review Division 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.
- 2. Information Services.** The Review Division 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.

## **REVIEW DIVISION OFFICE**

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

# HIGHLIGHTS AND ACCOMPLISHMENTS

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The Review Division is committed to supporting Government's strategic direction in improving client services and public awareness. The Review Division focuses on the delivery of its services to workers, employers, and others who are involved in the review process. Service excellence is primarily seen throughout the sequential flow of interactive processes that lead to a formal hearing before the Review Commissioner. Review Division staff maintain one on one contact with many of its clients and offer support and guidance particularly with respect to the hearing process. The Review Division's accomplishments for 2006 include:

- ◆ Client Tracking System

In 2006 the Review Division conducted an evaluation and review of its internal computerized tracing system (CTS). This process led to the creation of a newly programmed system which will enable the Review Division to effectively monitor and track applications received, issues appealed, hearings scheduled, and decisions rendered, as well as providing statistics on caseload and turnaround time.

- ◆ Caseload Turnaround Time

The Review Division constantly strives to improve turnaround times in processing its caseload. The majority of clients have a hearing within 30 days of filing their Request for Review Application and following this will have a decision within 30 days of a hearing. There was a significant drop (30 days) in the Review Division's processing time from 5.3 months in 2005 to 4.4 months in 2006.

- ◆ Decision Search System

In an effort to provide ongoing research and information services to clients, the Review Division provides its final decisions for review on the internet. Currently, there are more than 3800 decisions from 1996 onward. To date there have been 10,000 hits to this site. The Decision Search System (DSS) can be accessed at <http://whscrd.gov.nl.ca>

- ◆ Statutory Review Committee

The *Statutory Review Committee on the Workplace Health, Safety and Compensation Act* met with the Review Division to examine its role and function within the workers' compensation system. The Review Division is currently awaiting Government's response to the recommendations contained in the Statutory Review Committee's report titled *Finding the Balance*.



# ACTIVITIES

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- ◆ Workers filed 337 Request for Review Applications whereby they objected to a final decision of the Commission.
- ◆ Employers filed 41 Request for Review Applications whereby they objected to a final decision of the Commission.
- ◆ In 2006, the Review Division provided decisions on 322 cases.
- ◆ Review Commissioners found that 57% of Commission decisions, which were subject to review, were not consistent with the *Act*, the regulations and policies of the Commission. In these cases, Review Commissioners allowed the appeals or referred the cases back to the Commission for further review.
- ◆ The average time to receive a decision following the hearing for 2006 was 45 days. Overall processing time from application to decision was 4.4 months.
- ◆ Approximately 35% of workers, who filed applications, represented themselves throughout the Review Process.
- ◆ There were 37 requests for reconsideration of decisions filed in 2006. Eight requests were granted.

# STATISTICAL OVERVIEW

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<b>Caseload</b>		
	<b>Year Ending</b>	<b>Year Ending</b>
	<b>2006</b>	<b>2005</b>
Appeals carried forward from previous year	146	251
New Applications	378	461
<b>TOTAL CASELOAD</b>	<b>524</b>	<b>712</b>
Decisions Rendered	322	457
Cases Withdrawn	69	67
Cases Awaiting a Decision	10	30
Cases Waiting to be Heard	86	101
Applications Pending	19	25
Applications Rejected	18	32

<b>Monthly Hearings and Decisions</b>				
	<b>Year Ending</b>		<b>Year Ending</b>	
	<b>2006</b>		<b>2005</b>	
	<i>Hearings</i>	<i>Decisions</i>	<i>Hearings</i>	<i>Decisions</i>
<b>January</b>	36	6	21	26
<b>February</b>	39	29	33	63
<b>March</b>	28	48	27	58
<b>April</b>	28	18	41	19
<b>May</b>	30	47	33	52
<b>June</b>	18	24	25	35
<b>July</b>	14	15	42	15
<b>August</b>	15	24	37	41
<b>September</b>	19	22	27	42
<b>October</b>	28	28	25	17
<b>November</b>	36	29	31	42
<b>December</b>	11	32	32	47
<b>TOTAL</b>	<b>302</b>	<b>322</b>	<b>374</b>	<b>457</b>

<b>Hearings</b>		
	<b>Year Ending</b>	<b>Year Ending</b>
	<b>2006</b>	<b>2005</b>
<b>St. John's</b>	206	304
<b>Corner Brook</b>	44	42
<b>Gander</b>	38	63
<b>Grand Falls-Windsor</b>	13	29
<b>Labrador City</b>	1	5
<b>TOTAL</b>	<b>302</b>	<b>443</b>

<b>Decisions</b>		
	<b>Year Ending</b>	<b>Year Ending</b>
	<b>2006</b>	<b>2005</b>
Denied	138	233
Allowed	148	156
Referred to WHSCC	36	68
<b>TOTAL</b>	<b>322</b>	<b>457</b>

<b>Reconsideration Requests</b>						
	<b>Year Ending</b>			<b>Year Ending</b>		
	<b>2006</b>			<b>2005</b>		
	<b>Requests</b>	<b>Allowed</b>	<b>Denied</b>	<b>Requests</b>	<b>Allowed</b>	<b>Denied</b>
Requested by Employer	5	0	5	3	2	1
Requested by WHSCC	15	4	11	18	12	6
Requested by Worker	17	4	13	22	1	21
<b>TOTAL</b>	<b>37</b>	<b>8</b>	<b>29</b>	<b>43</b>	<b>15</b>	<b>28</b>

<b>Issues Summary</b>				
<b>TYPE OF ISSUES REVIEWED</b>	<b>No. of</b>	<b>Outcome</b>		
<b>Worker/Dependent Applications</b>	<b>Objections</b>	<b>Allowed</b>	<b>Denied</b>	<b>Referred to WHSCC</b>
Canada Pension Plan	4	1	2	1
Compensation Denied	35	20	12	3
Compensation Rate	9	5	4	0
Dependency Benefits	6	1	3	2
Early and Safe Return to Work	2	1	1	0
Extended Earnings Loss Benefits	54	26	23	6
Hearing Loss	5	3	2	0
Industrial Disease	4	2	2	0
Labour Market Re-entry	2	0	2	0
Medical Aid	52	32	15	5
Other	5	3	1	1
Permanent Functional Impairment	42	14	22	5
Proportionment	15	9	4	2
Re-Employment Obligation	3	0	3	0
Recurrence	31	9	15	7
Re-Opening	35	21	9	5
Temporary Earnings Loss Benefits	23	14	7	2
<b>TOTAL</b>	<b>327</b>	<b>161 (49%)</b>	<b>127 (39%)</b>	<b>39 (12%)</b>
<b>Employer Applications</b>	<b>Objections</b>	<b>Allowed</b>	<b>Denied</b>	<b>RBC</b>
Assessment Rate	1	0	1	0
Cost Relief	1	0	1	0
Objection to a Worker's Claim	21	0	20	1
<b>TOTAL</b>	<b>23</b>	<b>0 (0%)</b>	<b>22 (96%)</b>	<b>1 (4%)</b>
<b>OVERALL TOTALS</b>	<b>349</b>	<b>161 (46%)</b>	<b>149 (43%)</b>	<b>40 (11%)</b>
<b>Note:</b> Review Applications may raise more than one issue for review, therefore, the above numbers do not correlate with the number of Review Applications or Decisions rendered.				

# FINANCIAL STATEMENT

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**Statement of Expenditures and Related Revenues  
Unaudited  
For the Fiscal Year Ended March 31, 2006**

		<u>Estimates</u>	
	<u>Actual</u>	<u>Amended</u>	<u>Original</u>
	\$	\$	\$
<b>7.1.01. Workplace Health, Safety and Compensation Review Division</b>			
01. Salaries	285,855	304,600	304,600
02. Employee Benefits	1,563	2,500	2,500
03. Transportation and Communication	27,903	30,000	20,000
04. Supplies	15,928	22,500	22,500
05. Professional Services	310,340	377,000	413,000
06. Purchased Services	112,250	125,500	125,500
07. Property, Furnishings and Equipment	<u>26,924</u>	<u>29,000</u>	<u>3,000</u>
	<u>780,763</u>	<u>891,100</u>	<u>891,100</u>
02. Revenue - Provincial	<u>(1,596,709)</u>	<u>(891,100)</u>	<u>(891,100)</u>
<b>Total: Workplace Health, Safety and Compensation Review Division</b>	<u>(815,946)</u>	<u>          -</u>	<u>          -</u>

Source: Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for the year ended 31 March 2006

# REVIEW COMMISSIONERS

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## **Robert W. Lundrigan, Chief Review Commissioner**

Mr. Lundrigan was appointed 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 up to September 2005.

## **Kimberly Burridge, Review Commissioner**

Ms. Burridge is a graduate of Dalhousie Law School and was admitted to the Newfoundland Bar in 1994. She was appointed to the Review Division in 2005. She currently practices law in Corner Brook with *Murphy Watton and Burridge*. She is also an Adjudicator with the Newfoundland and Labrador Human Rights Commission and is the Vice Chair Person of the Board of the Humber Community Development Corporation. In the past she was a Commissioner for Urban and Rural Planning and a member of various other Boards.

## **Alex Harrold, Review Commissioner**

Alex Harrold graduated from Dalhousie University Law School in 2001 and was called to the Newfoundland Bar in 2003. He was appointed as a Review Commissioner in 2005. Mr. Harrold is a retired teacher and former Executive Council member of the Newfoundland and Labrador Teachers' Association. He served a six-year term as Provincial Vice President of the Atlantic Division of the Multiple Sclerosis Society headquartered in Dartmouth, Nova Scotia.

# CONTACT THE REVIEW DIVISION

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