

**Workplace Health, Safety  
& Compensation  
Review Division**

**WHSCRD**



**ANNUAL REPORT  
2002**

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Annual Report 2002

Workplace Health, Safety & Compensation Review  
Division



*Annual Report  
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Annual Report 2002

# TABLE OF CONTENTS

Overview	/ 2
The Role of the WHSCRD	/ 3
The Review Process	/ 4
Caseload Highlights	/ 5
Decision Search System	/ 6
Budget 2002-2003	/ 7
For 2003	/ 8
Statistical Overview	/ 9
Review Commissioners	/ 13

March 31, 2003

The Honourable Percy Barrett  
Minister of Labour

Dear Minister:

We are pleased to present our 2002 Annual Report in accordance with the provisions of the Workplace Health, Safety & Compensation Act. This report covers the activities of the Workplace Health, Safety & Compensation Review Division from January 1, 2002 to December 31, 2002.

Respectfully submitted,

Eric A. Gullage  
Chief Review Commissioner



Annual Report 2002

# OVERVIEW

## OUR GOAL

We are committed to providing *a timely and impartial* review process, and to ensuring decisions made reflect a *thorough analysis* of each case and the governing legislation.

## ABOUT US

The Workplace Health, Safety & Compensation Review Division (WHSCRD) considers appeals from final decisions of the Workplace Health, Safety & Compensation Commission (WHSCC) under the authority of the *Workplace Health, Safety & Compensation Act* (the Act).

The WHSCRD is the final level of appeal provided by the Act. It is a separate and independent adjudicative entity and reports to the Minister of Labour.

The WHSCRD consists of a Chief Review Commissioner and three part-time Review Commissioners from various areas of the Province.



# THE ROLE OF THE WHSCRD

The WHSCRD was established by legislative amendment in 1994. The amendment created the independent review division with exclusive jurisdiction to hear and decide appeals that arise from decisions made by the WHSCC.

Appeals are assigned to Review Commissioners throughout the Province to review evidence, to conduct a hearing and to provide a decision on the outcome of the appeal.

An appeal can be filed by an injured worker, their dependent or an employer.



*13 employers appealed WHSCC decisions in 2002.*

Issues under review can include wage loss benefits, dependency benefits, rehabilitation services and benefits, disputes arising from the assignment of an employer to a particular group, medical aid benefits, etc.

Pursuant to Section 28(8) a Review Commissioner shall communicate his or her decision within 60 days of the date of the application for review.



Annual Report 2002

# THE REVIEW PROCESS

## Receipt of Appeal

As soon as an appeal application is filed, the WHSCC is contacted for confirmation that all levels of review have been completed internally. In addition, the WHSCC is also requested to provide a full copy of the file they used in their review of the case.

## Hearing

When the appeal is accepted, it is assigned to a staff member of the WHSCRD. The staff member becomes the appellant's contact within the WHSCRD and provides all the necessary information on the processing of the appeal.

A copy of the file of information is prepared by the WHSCRD and distributed to the parties as soon as possible. The hearing is also scheduled. Delays may occur at this time as parties may indicate that they are not ready to proceed.

Appellants may appear in person for a hearing or they may request a paper review of their case.

## Evidence

The WHSCRD will not accept new evidence at the review hearing that has not been previously reviewed by the WHSCC.

It is recommended that individuals who may have new evidence, i.e. medical reports, affidavits, etc. forward same to the WHSCC for their review as it may impact the status of the case. Upon confirmation of WHSCC review, the WHSCRD will accept the documents into evidence.

## Decision

Once the hearing process is complete, a Review Commissioner will review the case and render a decision approximately one month following a hearing.



*66% of decisions rendered denied the appeal.*



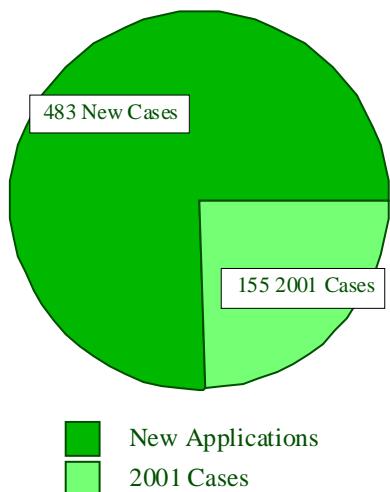
# CASELOAD HIGHLIGHTS

## Intake

Having experienced an increase in appeals throughout 2001, the WHSCRD caseload slowly returned to its annual “average” in 2002. New appeals filed totaled **483** compared to **646** in 2001. Applications in 2000 and 1999 were 438 and 357 respectively.

In June 2001, the WHSCC introduced significant new entitlement policies and revised existing policies. The effects of these policy changes on appeals were not seen within the WHSCRD until 2002. Policy additions such as EN-02: Proportionment; created new issues before Review Commissioners. In 2002, there were approximately **129** appeals filed in relation to the **new** policies.

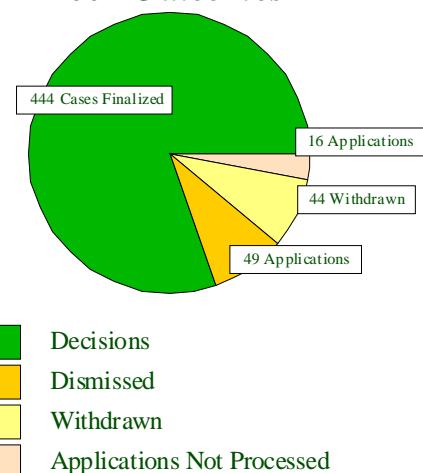
## *2002 Caseload: 683 Cases*



## Output

A total of 537 cases were dealt with in 2002. Not all these cases resulted in a final decision. 444 cases received a final decision while other cases were withdrawn for varying reasons such as further investigation by the WHSCC. Some of the applications did not meet the

## *2002 Outcomes*



requirements of the legislation for acceptance and were rejected by the WHSCRD.

*There were approximately 2500 telephone calls made in 2002 by WHSCRD staff to schedule hearings.*



The overall turnaround time on case processing was approximately 3.2 months. This includes 2.1 months on efforts to schedule hearings.



# DECISION SEARCH SYSTEM



*Please contact the WHSCRD for information on accessing the Decision Search System.*

Over the past eight years the WHSCRD has maintained a mailing list of individuals and organizations who have requested copies of its decisions. In 1996, bound copies of volumes were printed and distributed for reference. The volumes consisted of printed text only without any type of index.

In 2000, the WHSCRD distributed its decisions on compact disc. This method provided a word search function only and the ability to print applicable decisions.

During 2002, the WHSCRD began its work on the creation of a Web Site, a **Decision Search System**, that would allow clients to search its volumes of final decisions using the Internet.

The Web Site contains over 2000 decisions from 1997 to 2002. It can be searched using keywords or by the Decision Number. The search results are displayed for viewing and printing.

The WHSCRD will provide regular updates to the Web Site which will be officially launched in the Spring of 2003.



# BUDGET 2002-2003

Salaries \$282,400

Employee Benefits \$1,500

Transportation & Communication \$17,000

Supplies \$22,500

Professional Services \$240,000

Purchased Services \$43,000

Property, Furnishings &  
Equipment \$1,800

Information Technology \$79,500

**TOTAL** **\$687,700**



Annual Report 2002

# FOR 2003

- ▶ A website will be created for the WHSCRD. The website will provide information on the appeal process as well and provide access to brochures and required forms, etc. The website will also host the DSS.
- ▶ Development will continue on the Decision Search System (DSS) to provide users/clients with up to date information on appeal decisions.

Improvements to the DSS will be explored with a view to enhancing information retrieval capabilities and search criteria.

- ▶ In 2002, two reference brochures were created as an educational tool for clients - *Questions & Answers on the Review Process* and *A Guide to the WHSCRD*. Efforts will continue to create additional publications outlining processes within the WHSCRD to assist clients work through the appeal process and the statutory requirements.



# STATISTICAL OVERVIEW

<i>Caseload</i>	year ending 2002	year ending 2001
Appeals carried forward from previous year	155	105
New Applications	483	646
<b>TOTAL CASELOAD</b>	<b>638</b>	<b>751</b>
<i>Decisions Rendered</i>	444	461
<i>Cases Withdrawn</i>	44	73
<i>Cases Awaiting a Decision</i>	47	63
<i>Cases waiting to be heard</i>	62	74
<i>Applications Pending</i>	24	29
<i>Applications Rejected</i>	17	51

<i>Hearings</i>	year ending 2002	year ending 2001
St. John's	311	330
Corner Brook	43	47
Grand Falls-Windsor	38	45
Gander	39	58
Labrador	1	4
<b>Total</b>	<b>432</b>	<b>484</b>



<i><b>Decisions</b></i>	year ending <i><b>2002</b></i>	year ending <i><b>2001</b></i>
Denied	296	288
Allowed	142	108
Referred to WHSCC	6	65
<b>Total</b>	<b>444</b>	<b>461</b>

<i><b>Reconsideration Cases</b></i>	year ending <i><b>2002</b></i>	year ending <i><b>2001</b></i>				
	Requests	Allowed	Denied	Requests	Allowed	Denied
Requested by WHSCC	13	4	6	27	8	19
Requested by Worker	22	3	17	23	1	22
Requested by Employer	3	0	3	1	0	1
<b>Total Requests for Reconsideration</b>	<b>38</b>	<b>7</b>	<b>26</b>	<b>51</b>	<b>9</b>	<b>42</b>

<i><b>Representative Profile</b></i>	year ending <i><b>2002</b></i>	year ending <i><b>2001</b></i>
Union	121	122
Legal Counsel	56	66
Member of the House of Assembly	67	52
Self	101	151
Other	87	93
<b>Total</b>	<b>432</b>	<b>484</b>



***Hearings & Decisions***

	year ending		year ending	
	2002	Decisions	2001	Decisions
January	45	40	23	14
February	38	53	18	19
March	41	33	27	57
April	42	39	8	19
May	46	40	50	22
June	39	25	41	26
July	18	35	64	24
August	30	33	51	51
September	28	36	38	57
October	37	39	57	65
November	35	43	62	62
December	33	28	45	45
<b>TOTAL</b>	<b>432</b>	<b>444</b>	<b>484</b>	<b>461</b>

*87 decisions rendered in 2002  
dealt with Extended Earnings Loss  
benefits - 15 were allowed.*



*79 decisions dealt with Permanent  
Functional Impairment Awards - 5 were  
allowed and 9 were referred to the  
Commission.*



# REVIEW COMMISSIONERS

## Eric A. Gullage, Chief Review Commissioner

Mr. Gullage has been Chief Review Commissioner of the Review Division since its inception in 1994. Prior to his appointment as Chief Review Commissioner, Mr. Gullage was the Member of the House of Assembly for the District of Waterford-Kenmount and served as minister in various government departments such as Municipal & Provincial Affairs, Housing and Social Services. He was previously a St. John's Municipal Councillor and Newfoundland Manager for a major life insurance company.

## Clayton Locke, Review Commissioner

Mr. Locke is a businessman operating in central Newfoundland. He has been appointed to the Review Division since 1994. Mr. Locke has served on numerous volunteer boards, most recently as Chairman of the Central Newfoundland Health Care Board. He also currently sits on the Newfoundland & Labrador Medical Board. He is past-president of the Newfoundland & Labrador Health Care

## Mary O'Brien, Review Commissioner

Ms. O'Brien is a graduate of the Queen's University Law School and was admitted to the Newfoundland Bar in 1990 and has been appointed to the Review Division since 1994. Ms. O'Brien is an Adjudicator with the Newfoundland & Labrador Human Rights Commission and also practices law. Ms. O'Brien is also a business person. She has extensive experience in the Newfoundland fishing industry and continues to play an active role in her family's seafood business.

## Derrick Watton, Review Commissioner

Mr. Watton was appointed originally in 1992 to the Workers' Compensation Appeal Tribunal as a Vice-Chairman. He was then appointed as a Review Commissioner to the Review Division in 1994. Mr. Watton is a past-president of the Corner Brook Rotary Club and practices law as a partner with the firm *Monaghan, Marshall, Allen-Westby, Watton* in Corner Brook, NL. He has in the past been an Adjudicator for the Newfoundland and Labrador Human Rights Commission, a Commissioner for Municipal Affairs and a Commissioner for the Labour Standards Tribunal.

