

WORKPLACE HEALTH, SAFETY
AND COMPENSATION
REVIEW DIVISION

Annual Report
2007



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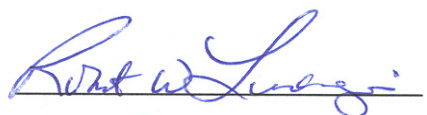
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MESSAGE FROM THE CHIEF REVIEW COMMISSIONER

Pursuant to the provisions of the *Workplace Health, Safety and Compensation Act*, I am pleased to present the Workplace Health, Safety and Compensation Review Division's (the Review Division) 2007 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, 2007 to December 31, 2007. In accordance with the Review Division's compliance with the *Transparency and Accountability Act* the activity based Annual Report to be prepared for 2007-2008 will provide additional details on the Review Division's activity for the 2007-2008 fiscal year.

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 Ms. Kimberly Burrige, LL.B., whose appointment as Review Commissioner expired on December 31, 2007, for her commitment to the Review Division's process and also thank the staff and Review Commissioners of the Review Division for their exceptional dedication and professionalism throughout this past year.



Robert W. Lundrigan
Chief Review Commissioner

OVERVIEW

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

Initiatives that provide for continuous improvements in the area of client service remains a priority for the Review Division. The Review Division 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 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

To determine how to further improve on some of the indirect aspects of providing enhanced services to clients, the Review Division in 2007, also examined many of its internal operational processes. Throughout this exercise the following were noted as highlights and accomplishments for 2007:

- ◆ There has been a significant reduction in the wait times for a decision during 2007. The average wait time was 30 days, compared to 45 days in 2006 and 65 days in 2005.
- ◆ As a category 3 entity and pursuant to the *Transparency and Accountability Act*, the Review Division prepared its 2007-2008 Activity Plan. This plan directed the activities of the Review Division for 2007 and outlined the goals of the Review Division for the 2007-2008 fiscal year.
- ◆ The Review Division has also commenced the process of revising and enhancing its website to provide clients with access to information and research tools, as well as links to other pertinent sites.

CASELOAD HIGHLIGHTS AND ACTIVITIES

2007 CASELOAD ACTIVITY AT A GLANCE

In 2007, 325 Request for Review Applications were filed and 288 hearings were held. In addition, Review Division staff also coordinated work for an additional 83 hearings which were either postponed/rescheduled or subsequently withdrawn by the parties.

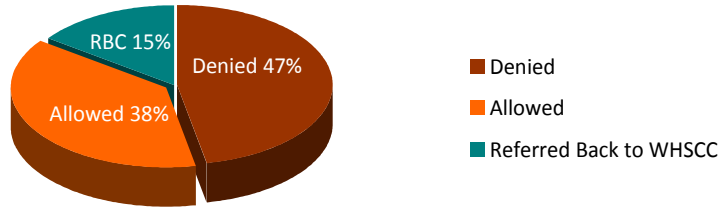
- ◆ Workers filed 296 Request for Review Applications.
- ◆ Employers filed 29 Request for Review Applications.
- ◆ The Review Division provided decisions on 275 cases.
- ◆ Review Commissioners found that 53% of Commission decisions, which were subject to review, were not consistent with the *Act*, the 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 or investigation.
- ◆ The average time to receive a decision following the hearing was 30 days. Overall processing time from application to decision was four months.
- ◆ Approximately 46% of workers, who filed applications, represented themselves throughout the Review Process.
- ◆ There were 30 requests for reconsideration of decisions filed in 2007. Five requests were granted.

STATISTICS 2007

Caseload		
	Year Ending	Year Ending
	2007	2006
Appeals carried forward from previous year	115	146
New Applications	325	378
TOTAL CASELOAD	440	524
Decisions Rendered	275	322
Cases Withdrawn	31	69
Cases Awaiting a Decision	21	10
Cases Waiting to be Heard	83	86
Applications Pending	17	19
Applications Rejected	13	18

Reconsideration Requests						
	Year Ending			Year Ending		
	2007			2006		
	<i>Requests</i>	<i>Allowed</i>	<i>Denied</i>	<i>Requests</i>	<i>Allowed</i>	<i>Denied</i>
Requested by Employer	2	0	2	5	0	5
Requested by WHSCC	15	5	10	15	4	11
Requested by Worker	13	0	13	17	4	13
TOTAL	30	5	25	37	8	29

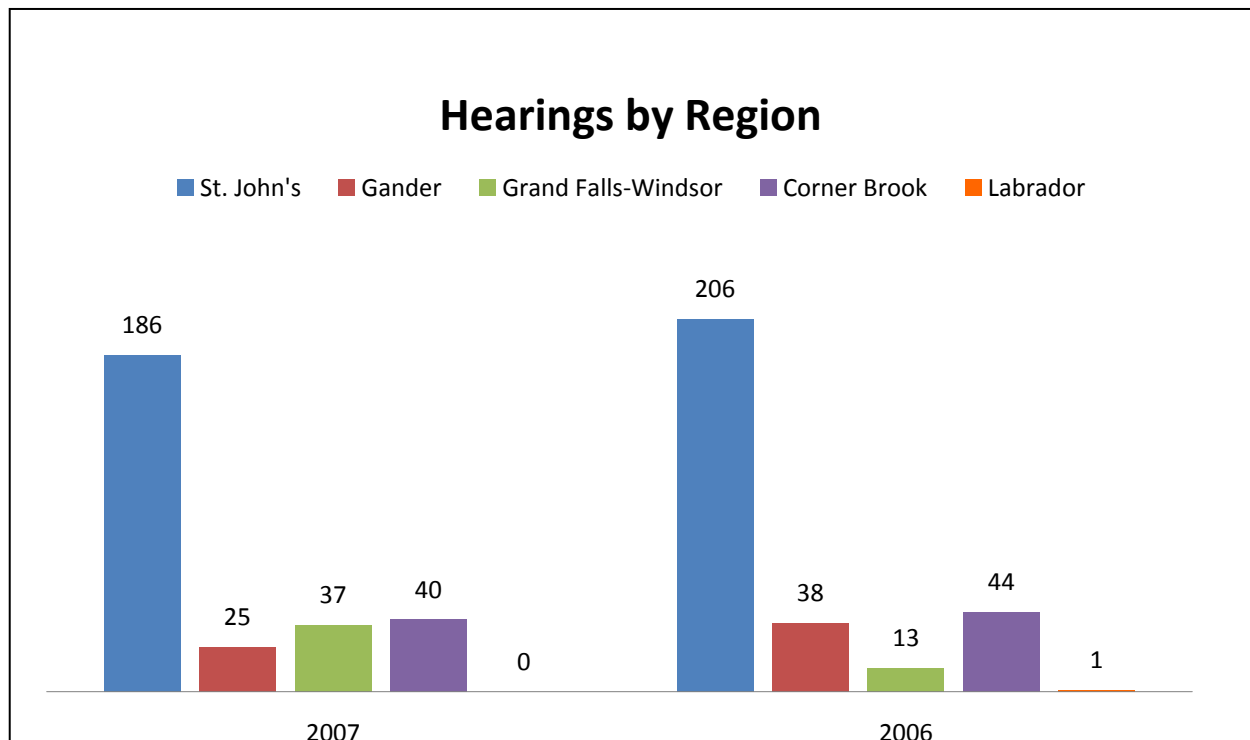
Decision Outcome 2007



Decisions		
	Year Ending	Year Ending
	2007	2006
Denied	129	138
Allowed	106	148
Referred to WHSCC	40	36
TOTAL	275	322

Monthly Hearings and Decisions				
	Year Ending		Year Ending	
	2007		2006	
	Hearings	Decisions	Hearings	Decisions
January	28	12	36	6
February	13	25	39	29
March	28	17	28	48
April	21	22	28	18
May	43	24	30	47
June	17	23	18	24
July	19	27	14	15
August	17	34	15	24
September	27	14	19	22
October	31	12	28	28
November	23	39	36	29
December	21	26	11	32
TOTAL	288	275	302	322

Hearings		
	Year Ending	Year Ending
	2007	2006
St. John's	186	206
Corner Brook	40	44
Gander	25	38
Grand Falls-Windsor	37	13
Labrador	0	1
TOTAL	288	302



Issues Summary – Based on Decisions Finalized in 2007

TYPE OF ISSUES REVIEWED	No. of	Outcome		
Worker/Dependent Applications	Objections	Allowed	Denied	Referred to WHSCC
Canada Pension Plan	3	2	1	0
Claim Denied	27	15	6	6
Compensation Rate	3	1	2	0
Dependency Benefits	4	1	1	2
Early and Safe Return to Work	2	2	0	0
Extended Earnings Loss Benefits	61	35	17	9
Industrial Deafness	11	3	4	4
Labour Market Re-entry	25	11	7	7
Medical Aid	52	28	15	9
Other	5	2	1	2
Overpayment	8	2	4	2
Permanent Functional Impairment	54	21	28	5
Permanent Partial Disability	4	1	2	1
Proportionment	7	6	1	0
Recurrence	24	10	11	3
Re-Opening	6	2	4	0
Temporary Earnings Loss Benefits	12	5	5	2
TOTAL	308	147 (48%)	109 (35%)	52 (17%)
Employer Applications	Objections	Allowed	Denied	RBC
Assessment Rate	2	1	1	0
Cost Relief	5	1	3	1
Objection to a Worker's Claim	6	1	4	1
Other	2	2	0	0
PRIME	4	1	3	0
TOTAL	19	6 (32%)	11 (58%)	2 (10%)
OVERALL TOTALS	327	153 (47%)	120 (37%)	54(16%)

Note: 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

Statement of Expenditures and Related Revenues
Unaudited
For the Fiscal Year Ended March 31, 2007

	Estimates		
	Actual	Amended	Original
	\$	\$	\$
7.1.01. Workplace Health, Safety and Compensation Review			
01. Salaries	302,251	312,700	312,700
02. Employee Benefits	3,277	5,000	2,500
03. Transportation and Communications	19,072	20,000	20,000
04. Supplies	17,769	22,500	22,500
05. Professional Services	275,168	406,000	410,500
06. Purchased Services	118,698	123,100	120,500
07. Property, Furnishings and Equipment	<u>4,709</u>	<u>7,400</u>	<u>8,000</u>
	<u>740,944</u>	<u>896,700</u>	<u>896,700</u>
02. Revenue - Provincial	<u>(242,281)</u>	<u>(896,700)</u>	<u>(896,700)</u>
Total: Workplace Health, Safety and Compensation Review	<u><u>498,663</u></u>	<u><u>-</u></u>	<u><u>-</u></u>

Source: Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for the year ended 31 March 2007

REVIEW COMMISSIONERS

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 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. Ms. Burridge's appointment as Review Commissioner expired on December 31, 2007.

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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