



**New Brunswick
Workers' Compensation
Appeals Tribunal**

**Workers' Compensation
Appeals Tribunal**

2020-2021

Annual Report



WORKERS' COMPENSATION APPEALS TRIBUNAL

TRIBUNAL D'APPEL DES ACCIDENTS AU TRAVAIL

P.O. Box 5001 / C.P. 5001
3700 chemin Westfield Road
Saint John, N.B.
E2L 4Y9

Hon. Trevor Holder
Minister of Post-Secondary Education, Training and Labour
P.O. Box 6000
Fredericton, NB E3B 5H1

Minister Holder,

The Workers' Compensation Appeals Tribunal is pleased to present its Annual Report for the fiscal year ending March 31, 2021.

Respectfully submitted,



Kelli Simmonds
Chairperson

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Overview

The Workers' Compensation Appeals Tribunal's primary responsibility is to provide timely, fair, consistent, and impartial decisions when resolving appeals of decisions rendered by WorkSafeNB. WCAT is legally and administratively separate from WorkSafeNB to ensure we maintain our independence.

WCAT is a quasi-judicial administrative tribunal that is an independent group of qualified New Brunswickers who operate separate from the Government of New Brunswick and WorkSafeNB.

Under the legislative authority of the *Workplace Health, Safety and Compensation Commission and Workers' Compensation Appeals Tribunal Act (WHSCC and WCAT Act)*, WCAT is mandated to hear appeals under the *WHSCC and WCAT Act*, *the Workers' Compensation Act*, *the Firefighters' Compensation Act*, and *the Occupational Health and Safety Act*.

All decisions, rulings, and orders of WCAT are based on the real merits and justice of the case. Any decision, order or ruling of WCAT is final, subject only to an appeal to the Court of Appeal involving any question as to its jurisdiction or any question of law.

For more information on WCAT see [About the Tribunal | NBWCAT \(nbwcat-taatnb.ca\)](https://nbwcat-taatnb.ca).

Executive Summary

During the 2020-2021 fiscal year, WCAT continued to provide quality decision making consistent with our governing legislation and associated policies. Moreover, work is ongoing to help us address the unprecedented number of appeals we received in 2019. Specifically, in 2019 WCAT received 1297 appeal applications, an increase of 134.5% over 2018. This is the highest number of appeals received in WCAT's history (553 appeals were filed in 2018). Our efforts to reduce our backlog were also impacted by the global COVID-19 pandemic which completely shut down WCAT's ability to conduct hearings for approximately two months.

At the end of May 2020, WCAT recommenced hearing cases by way of telephone conference.

WCAT is now back to having a full hearing caseload, while at the same time working on ways to reduce our backlog resulting from the 2019 increase in appeals.

Some highlights of WCAT's actions/improvements include:

- introduction of hearings by way of written submissions for hearing loss (HL) cases filed by workers' advocates. Acceptance of claim cases, including HL, increased from 70 in 2018 to 475 in 2019 and they continue to be a common ground of appeal.
- introduction of video conferencing hearings to provide another option for appeal.
- putting in place the requisite precautions to provide in person hearings in exceptional circumstances.

In addition to the above, WCAT is also working on internal processes and solutions to help ensure we provide excellent service as well as to help manage our caseloads. For example, all staff now have laptops so services can be provided remotely (as appropriate). We have introduced electronic appeal records, to better service our clients and make operations more efficient. And, WCAT commenced a pilot project where we are triaging financial need cases to facilitate a faster resolution of these appeals.

We also continue to look at various other initiatives to improve our processes and manage our caseloads, including the finalization and modernization of our website [New Brunswick Workers Compensation Appeals Tribunal \(nbwcat-taatnb.ca\)](http://nbwcat-taatnb.ca). WCAT is committed to using an inclusive approach to our website's content and design – making it easier to find and understand information about the appeal process or how to get help. Towards this, WCAT welcomes comments, suggestions and feedback.

We are looking forward to continued improvements and success in 2021-2022.



Kelli Simmonds

Chairperson

WCAT Members

At the end of May 2020, Kelli Simmonds became the Chairperson of WCAT. She replaced Dan Theriault, Q.C., who held the position since 2015. We thank Dan for his excellent leadership and advocacy on behalf of WCAT.

On March 31, 2021 WCAT had 10 vice-chairpersons, which is the maximum allowed under the legislation.

The vice-chairpersons, who are appointed on a part time basis by the Lieutenant-Governor in Council are practicing lawyers who represent the linguistic, gender and geographical realities of the province of New Brunswick.

WCAT's current vice-chairpersons include:

- Anik Bossé. Q.C.
- Danys R. X. Delaquis, Q.C.
- Erika R. Hachey
- Mario J. Lanteigne
- Bernie T. LeBlanc
- Michael Marin
- Trisha Perry
- Liza Robichaud
- Johanne Thériault
- J. Nathalie Thibault

WCAT would also like to acknowledge and thank former vice-chairperson Daniel Leger for his dedication and service during his tenure on the Tribunal from July 10, 2017 to August 5, 2020.

Additional information on our vice-chairpersons is available on WCAT's website: [About the Tribunal | NBWCAT \(nbwcat-taatnb.ca\)](https://www.nbwcat-taatnb.ca)

Highlights

Topic	2020	2019
<i>Appeals received</i>	478	1297
<i>Appeals resolved</i>	441	604
<i>Appeals initiated by:</i>		
<i>Worker</i>	96%	96%
<i>Employer</i>	4%	4%
<i>Time from the hearing to final decision</i>	79 days	82 days
<i>Appeal Results:</i>		
<i>Accepted</i>	46%	52%
<i>Accepted in part</i>	5%	3%
<i>Denied</i>	48%	44%
<i>Withdrawn (at hearing)</i>	1%	1%
<i>Hearings postponed</i>	77	100
<i>Appeals withdrawn</i>	76	36
<i>Appeals resolved by:</i>		
<i>Single member panel</i>	241	269
<i>Paper Review</i>	15	3
<i>WCAT Budget*</i>	\$2,002,000	\$2,002,000

*Note: Budgets are done on a fiscal year, not a calendar year.

- The inventory of appeals increased by 13.4% from the previous year. The overall processing time for an appeal increased by 54.6% from 2019. This is due to the large increase in appeals in 2019. As stated in the Executive Summary above, WCAT continues working on a number of initiatives to reduce this backlog and improve our processing time.
- There is a legislated 90-day time limit to render a decision from the hearing. The processing time from the hearing to the decision being finalized decreased by 3.7% since last year. The time to render a decision from the hearing is dependent on the complexity of the issues under appeal. The average processing time from the hearing to the decision being finalized is at 79 days, remaining below the 90-day legislated time limit.

Mandatory Order – Impact on WCAT

Emergency Measures Act - Mandatory Order: Limitation Periods

The Mandatory Order issued under the *Emergency Measures Act* impacted WCAT as it suspended limitation periods, including those applicable to Administrative Tribunals.

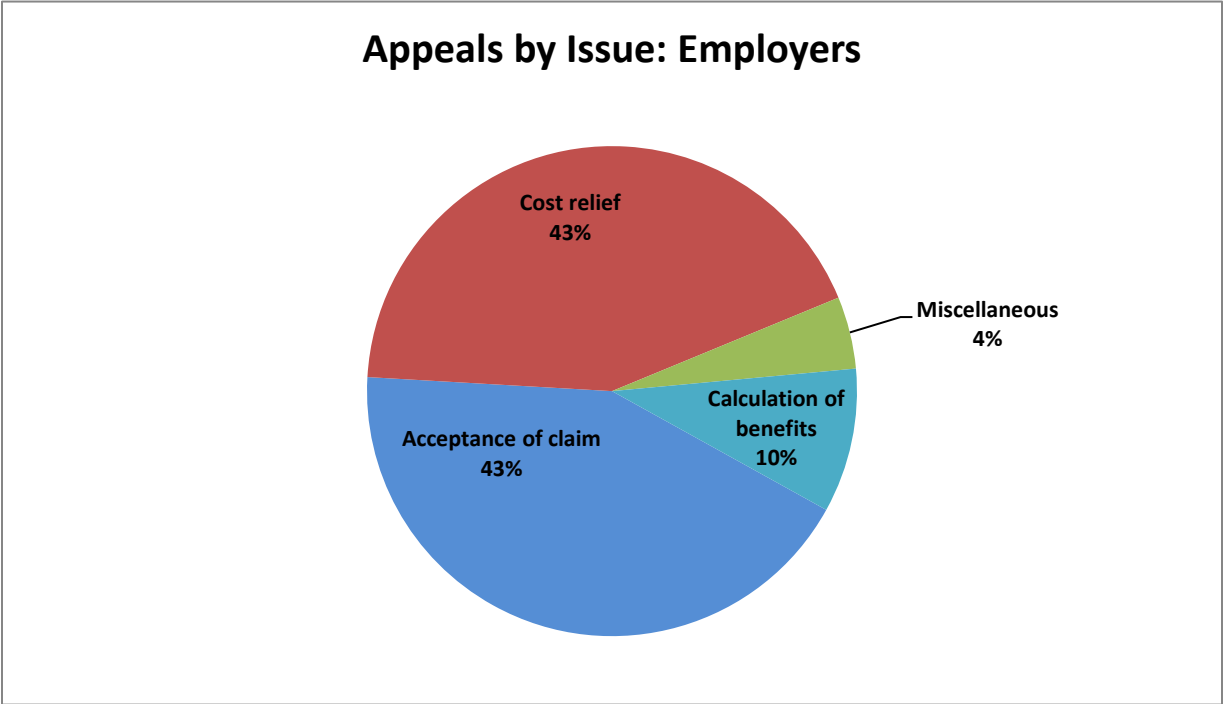
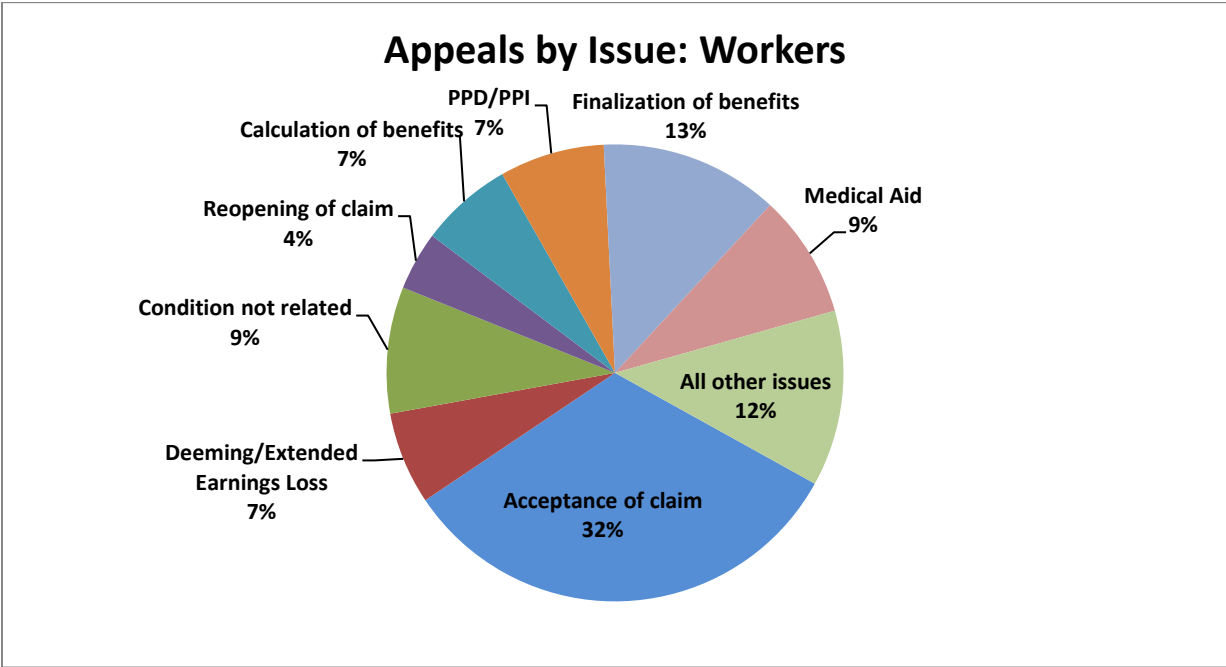
The final revised order states that “A limitation period for commencing a proceeding or a time period for taking steps in a proceeding resumes running on September 19, 2020, and the period from March 19, 2020, to September 18, 2020, shall not be counted in calculating the limitation period or time period”.

Statistics

APPEAL RESULTS

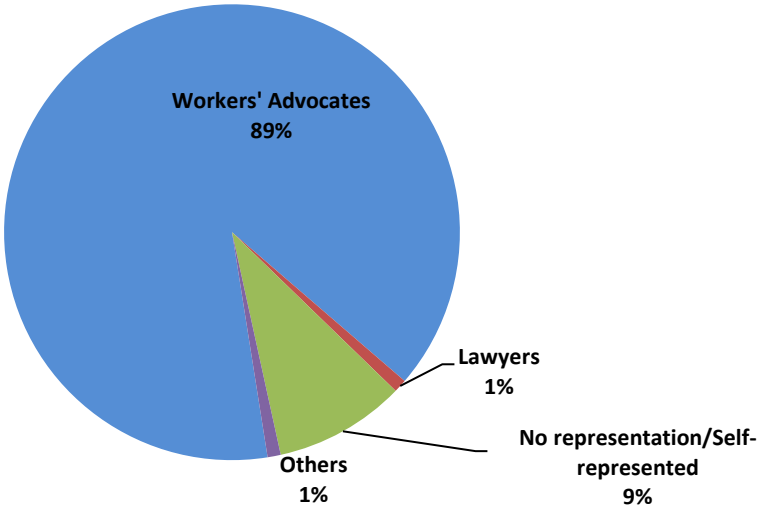
	2015	2016	2017	2018	2019	2020
<i>Accepted</i>	83%	85%	69%	43%	52%	46%
<i>Accepted in part</i>	5%	3%	3%	5%	3%	5%
<i>Denied</i>	12%	11%	27%	51%	44%	48%
<i>Withdrawn at hearing</i>	0%	1%	1%	1%	1%	1%

Statistics

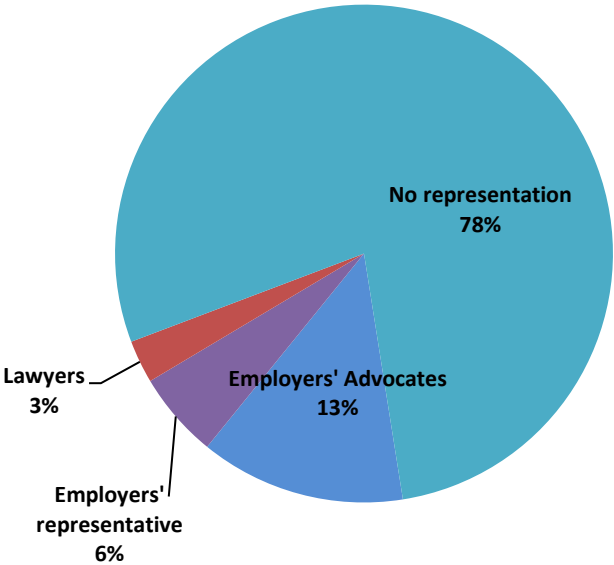


Statistics

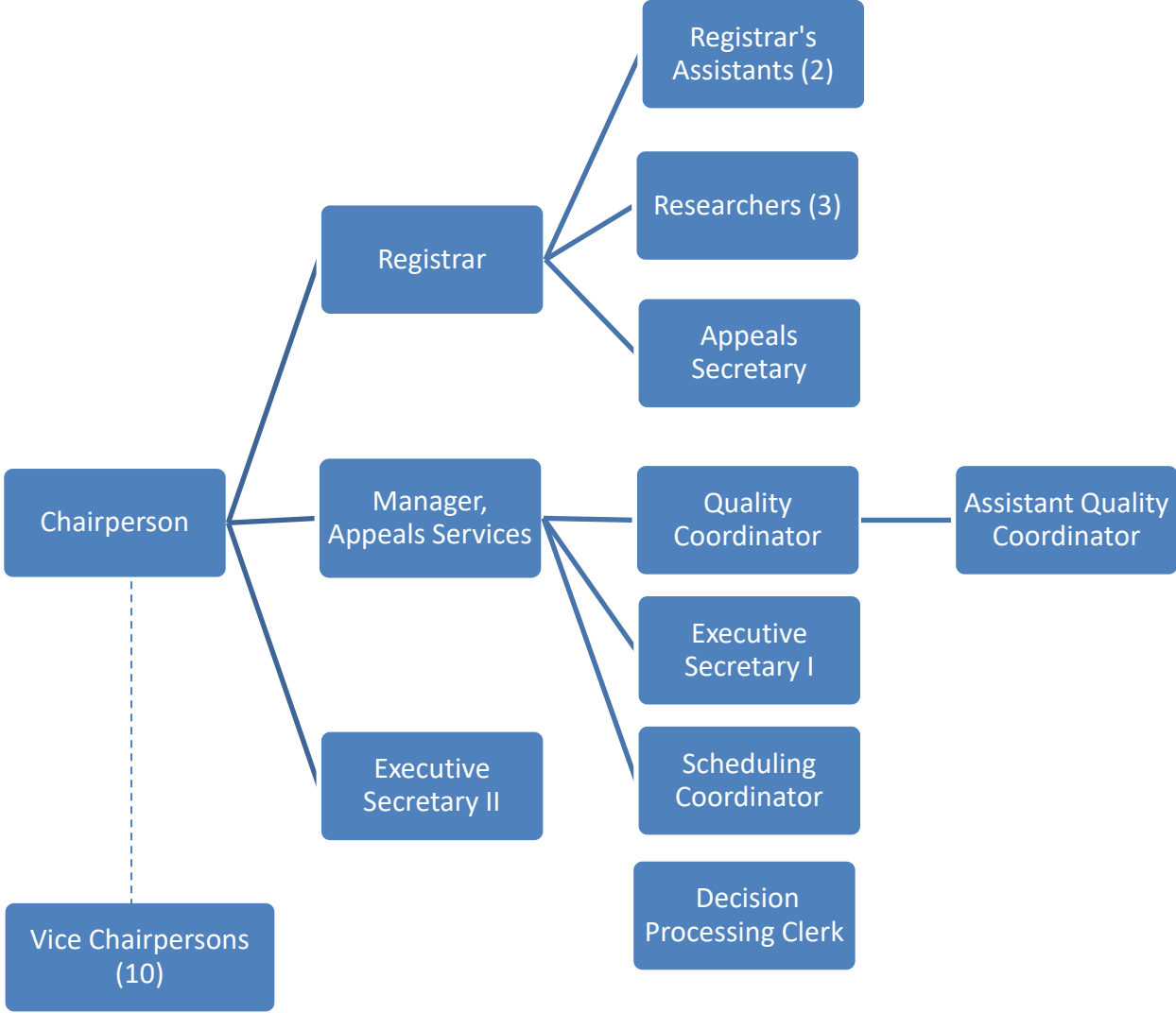
Worker's Representatives at Hearings



Employer's Representatives at Hearings



Organizational Chart



Note: numbers in brackets () represents the number of people in that role.