

# Legal VIEW

## Court ruling illustrates limits of Appeals Commission's authority over WCB procedural issues

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**T**he *Workers' Compensation Act* makes it clear that the Appeals Commission has jurisdiction to hear appeal from internal reviews conducted by WCB's Decision Review and Dispute Resolution Body (DRDRB). However, questions have occasionally arisen regarding whether the Appeals Commission's authority over WCB and the DRDRB also extends to their processes or procedures. The Court of Queen's Bench recently considered this question in *Cordeiro v Alberta (Appeals Commission for Workers' Compensation)*, 2017 ABQB 22.

### Complaint included more than 80 appeal issues

In the *Cordeiro* case, the worker, who already had an extensive history in dealing with WCB and the Appeals Commission, raised a large number of issues in a subsequent request for review before the DRDRB. After reviewing a list of more than 80 proposed appeal issues, the DRDRB ruled that it would hear three issues dealing with acceptance of certain claims or entitlement to benefits. The remainder of the proposed review issues were excluded, either because they had been dealt with in prior Appeals Commission decisions, or were indeterminate complaints about "unfairness or injustice" that could not be resolved by the DRDRB. Notwithstanding the worker's complaints that the remaining issues should proceed, the DRDRB heard the three issues related to claims acceptance or benefit entitlement and decided those issues.

The worker then brought an appeal to the Appeals Commission, which included most of the more than 80 issues originally raised before the DRDRB, as well as additional grounds of appeal related to the DRDRB's failure to consider all of the worker's original complaints. The Appeals Commission conducted a preliminary hearing to determine whether it could deal with any of the appeal issues raised by the worker and decided that it did not have jurisdiction to hear complaints regarding "alleged procedural errors, failings and omissions

of WCB and DRDRB" because these were not "compensation matters." It further decided that a number of the issues raised by the worker were previously decided or otherwise before the Appeals Commission in other proceedings and therefore that these matters were properly excluded by the DRDRB and not properly before the Appeals Commission.

### The Court of Queen's Bench weighs in

An application for judicial review and judicial appeal of the Appeals Commission's decision was brought by the worker before the Court of Queen's Bench. The basis of the worker's application was, in part, that the Appeals Commission had jurisdiction to make rulings regarding the alleged procedural errors of the WCB and DRDRB and that it had wrongfully failed to exercise this jurisdiction. The worker further argued that the procedural errors he complained of could not be cured by a new (*de novo*) hearing before the Appeals Commission.

In dismissing the worker's application, Justice Michalyszyn held that the *Workers' Compensation Act* "does not empower the Appeals Commission to supervise the operational procedures and practices of WCB." Since the alleged procedural errors raised by the worker were related directly to the claims and benefits issues raised in his appeal, the Court also concluded that these alleged errors would be cured by a *de novo* hearing of these issues by the Appeals Commission.

### Limitations on decisions

Parties contemplating either a review of a WCB decision before the DRDRB or an appeal to the Appeals Commission should be mindful of the fact that both decision-making bodies are limited in their jurisdiction by the provisions of the *Workers' Compensation Act*. While specific decisions regarding claims for compensation or assessments are reviewable before the DRDRB and may be appealed to the Appeals Commission, neither of these bodies has the broad authority to supervise the operations of WCB. WS