

## Decisions/Findings and Reasons for Decisions

These tables outline the decision making process at each Workers' Compensation Board/Commission and includes information such as whether decisions are made in writing.

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*Source: Association of Workers' Compensation Boards of Canada – 2015*

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## Newfoundland and Labrador

This table outlines the decision making process in Newfoundland and Labrador.

Newfoundland and Labrador	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	Decisions are based on the balance of probabilities and where each side for and against are equal, the decision shall be in favour of the worker. Where the injury arose out of the employment, it shall be presumed, unless the contrary is shown, that it occurred in the course of the employment, and where the injury occurred in the course of the employment, it shall be presumed, unless the contrary is shown, that it arose out of the employment. Newfoundland and Labrador sets out four reasons for which the Commission may reconsider a claim or decision. They include where an injury has proven more or less serious than it was considered to be; new evidence has been presented; a change has occurred in the condition of a worker, or in the number, circumstances or condition of dependents or otherwise; or a worker not following medically prescribed treatment. No specific legislative provision for reasons of decisions.
Section of Act:	<a href="#"><u>Workplace Health, Safety and Compensation Act</u></a> (section 60, 61 and 64)
Policy:	N/A

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## Prince Edward Island

This table outlines the decision making process in Prince Edward Island.

Prince Edward Island	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	<p>The Board issues written decisions. In accordance with the Act, decisions are to be made based upon the real merits and justice of the case and where the evidence for or against an issue is approximately equal in weight, the issue is to be decided in favour of the claimant.</p> <p>A person with a direct interest can ask the Board to reconsider a decision provided the request is made within 90 days from the date of notification of the decision. The Board shall provide a written copy of the reconsideration decision to any person with a direct interest in the matter.</p>
Section of Act:	<a href="#"><u>Workers Compensation Act</u></a> (sections 17, 56)
Policy:	<ul style="list-style-type: none"> <li>• <a href="#"><u>POL-62: Benefit of Doubt</u></a></li> <li>• <a href="#"><u>POL-68: Weighing of Evidence</u></a></li> <li>• <a href="#"><u>POL-83: New Evidence</u></a></li> </ul>

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## Nova Scotia

This table outlines the decision making process in Nova Scotia.

Nova Scotia	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	<p>The decisions, orders and rulings of the Board shall always be based upon the real merits and justice of the case and in accordance with this Act, the regulations and the policies of the Board. Notwithstanding anything contained in the Act, on any application for compensation an applicant is entitled to the benefit of the doubt which means that, where there is doubt on an issue respecting the application and the disputed possibilities are evenly balanced, the issue shall be resolved in the worker's favour. Furthermore, the Board may reconsider any decision, order or ruling made by it and confirm, vary or reverse the decision, order or ruling. The criteria for "reconsideration" of a decision are set out in Board policy.</p> <p>WCB issues written decisions.</p>
Section of Act:	<a href="#"><u>Workers' Compensation Act</u></a> (sections 185, 186, 187, and 198(2))
Policy:	N/A

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## New Brunswick

This table outlines the decision making process in New Brunswick.

New Brunswick	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	Decisions of WorkSafeNB shall be upon the real merits of the case, and it is not bound to follow strict legal precedent.  WorkSafeNB may where deemed necessary, and shall on application of an employer, or worker interested in a decision, issue a certificate embodying the substance of such a decision.
Section of Act:	<a href="#">Workers Compensation Act</a> (sections 33, 34, 35)
Policy:	N/A

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## Quebec

This table outlines the decision making process in Quebec.

Quebec	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	<p>In Quebec, the Commission shall render its decisions according to equity and upon the real merits and justice of the case. The Commission may reconsider its decision within 90 days, if the decision was not the subject matter of a decision rendered pursuant to a revision aiming at correcting an error. On its own initiative, or at the request of a party, and if the decision of the Commission has been rendered before an essential fact was known, the Commission may reconsider such decision within 90 days from the day when such fact became known. Before reconsidering a decision, the Commission shall advise the persons to whom it had notified the decision. The Commission may not reconsider a decision rendered on a financial issue.</p> <p>In Quebec, decisions of the Commission must be in writing, substantiated and notified to the interested parties as soon as possible.</p>
Section of Act:	<a href="#"><u>Act respecting Industrial Accidents and Occupational Diseases</u></a> (sections 351, 354, 365 and 366)
Policy:	N/A

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## Ontario

This table outlines the decision making process in Ontario.

Ontario	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	The WSIB communicates its decisions, and the reasons, in writing to parties of record. The WSIB must supply reasons and decisions in every case.
Section of Act:	<a href="#">Workplace Safety and Insurance Act</a> (sections 119 and 131(4))
Policy:	<ul style="list-style-type: none"><li>• <a href="#">Policy 11-01-03, Merits and Justice</a></li><li>• <a href="#">Policy 11-01-13, Benefit of Doubt</a></li><li>• <a href="#">Policy 11-01-02, Decision-Making</a></li></ul>

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## Manitoba

This table outlines the decision making process in Manitoba.

Manitoba	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	Upon the written request of a person with a direct interest in the matter, the Manitoba WCB and the Manitoba Appeal Commission shall provide a written summary of the reasons for the decision.
Section of Act:	<a href="#">Workers Compensation Act</a> (sections 60.1(4), 60.8(5))
Policy:	<a href="#">Policy 20.10, Reconsiderations</a>

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## Saskatchewan

This table outlines the decision making process in Saskatchewan.

Saskatchewan	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	Decisions by the Board are based upon the real merits and justice of the case. Claim decisions are communicated in writing.  Saskatchewan is to give written reasons for unfavourable decisions.
Section of Act:	<a href="#">Workers' Compensation Act, 2013</a> (sections 23(1), 48)
Policy:	<a href="#">Policy &amp; Legislation</a> : POL 03/2012, 23/2014, 23/2013

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## Alberta

This table outlines the decision making process in Alberta.

Alberta	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	<p>Alberta's Act gives a claim's adjudicator statutory authority to decide entitlement in a case in the first instance. The Alberta Act states that the employer and worker, or dependant, shall be advised in writing of the particulars of the determination, and shall, on request, be provided with a summary of the reasons, including medical reasons, for the determination.</p> <p>Alberta provides that the Workers' Compensation Board must give notice of their determination to the worker and employer and, on request, provide a summary of reasons for the finding.</p>
Section of Act:	<a href="#">Workers' Compensation Act</a> (sections 35, 42, 44)
Policy:	N/A

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## British Columbia

This table outlines the decision making process in British Columbia.

British Columbia	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	<p>In British Columbia, there are limitations on reopenings or reconsiderations of previous decisions. With respect to reopenings, the WCB may, at any time, on its own initiative or on application, reopen a matter that has been previously decided by the WCB if there has been a significant change in a worker's medical condition that the WCB previously decided was compensable or if there has been a recurrence of a worker's injury. With respect to reconsiderations, the situation varies according to the subject matter of the previous decision. The WCB may, on its own initiative, reconsider compensation, rehabilitation or assessment decision within 75 days of the decision being made (unless there has been a request for a review or an appeal initiated in which case the authority to reconsider immediately ends). The WCB may, on its own initiative, vary or cancel an occupational health and safety decision or order at any time (unless there has been a request for a review or appeal initiated in which case the authority to vary or cancel immediately ends). The WCB may set aside any decision or order (compensation, rehabilitation, assessment or occupational health and safety) at any time if it resulted from fraud or misrepresentation.</p> <p>The British Columbia <i>Workers Compensation Act</i> requires that written reasons for decisions be provided in the following situations: on an application for a variance order under Part 3; an employer assessment; and a final decision by the appeal tribunal. In all other circumstances, Board policy provides that where a claim is allowed and there has been no protest, the Board will not provide reasons for the decision. Where a claim has been allowed but protested by an employer or an adverse decision made, the Board will notify the affected party of the decision and provide reasons.</p>
Section of Act:	<a href="#"><u>Workers Compensation Act</u></a> (sections 40, 96, 113, 169, 253)
Policy:	<ul style="list-style-type: none"> <li>• <a href="#"><u>Chapter 14 of the RS&amp;CM, Vol. II, Changing Previous Decisions</u></a></li> <li>• <a href="#"><u>Policy item #99.20 of the RS&amp;CM, Vol II, Notification of Decisions</u></a></li> </ul>

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## Yukon

This table outlines the decision making process in Yukon.

Yukon	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	<p>Yukon's Act gives a claim's adjudicator statutory authority to decide entitlement in a case in the first instance. Decisions are communicated in writing.</p> <p>The Workers' Compensation Health and Safety Board (YWHSCB)<sup>1</sup> must supply reasons and decisions must be written in plain language in every case.</p>
Section of Act:	<a href="#">Workers' Compensation Act</a> (sections 15, 16, 58)
Policy:	N/A

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1 With the exception of decisions relating to procedural matters.

## Northwest Territories and Nunavut

This table outlines the decision making process in Northwest Territories and Nunavut.

Northwest Territories and Nunavut	Decisions/Findings and Reasons for Decisions
Decisions/Findings and Reasons for Decisions:	<p>In Northwest Territories and Nunavut each matter is to be decided according to the justice and merits of the case, and the Commission is to draw all reasonable inferences and presumptions in favour of the worker.</p> <p>Northwest Territories and Nunavut must give written notice of their decision to the worker and employer and the decision must contain reasons for the decision.</p>
Section of Act:	<a href="#">Workers' Compensation Act</a> (sections 31(3), (4), 92(2))
Policy:	<a href="#">Policy 00.08, Decision Making</a>

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