

DECISION OF THE WORKERS' COMPENSATION APPEAL TRIBUNAL

WCAT Decision Number: A2501051
WCAT Decision Date: August 18, 2025
Panel: Hilary Thomson

Introduction

- [1] This decision is a summary decision about whether to dismiss the worker's appeal because it has no reasonable prospect of succeeding, and because the Workers' Compensation Appeal Tribunal (WCAT) does not have jurisdiction to grant what the worker wants.
- [2] The worker filed a prohibited action complaint with the Workers' Compensation Board (WorkSafeBC) in September 2024. In a February 11, 2025 decision, WorkSafeBC dismissed the worker's prohibited action complaint because it was filed more than a year after the alleged prohibited action. The worker's employment had been terminated in July 2023 and his complaint was made over a year later.
- [3] The worker has appealed this dismissal to WCAT. The worker acknowledges that the complaint was not filed within the year but says there were special circumstances and that he should be allowed to file his complaint late.
- [4] As is explained in more detail below, neither WorkSafeBC nor WCAT have the authority to accept a prohibited action complaint that is filed more than a year after the alleged prohibited action. Therefore, I have dismissed the worker's complaint because it has no reasonable prospect of succeeding, and because the outcome he wants is not something WCAT has jurisdiction to grant.
- [5] Summary decisions dismissing an appeal are usually issued as letters and are not published. However, because this decision addresses a matter that it may be helpful for the public and parties before WCAT to know about, namely the use of artificial intelligence when providing submissions, I have issued this decision as a numbered decision.

Issue(s)

- [6] Should the worker's appeal of a WorkSafeBC decision that dismissed his prohibited action complaint be dismissed?

Reasons and Findings

- [7] The worker filed his prohibited action complaint in September 2024, more than a year after the employer terminated his employment. The employer's prohibited action happened more than one year before his complaint was filed. Because the complaint was out of time, WorkSafeBC dismissed it.
- [8] The appeal officer wrote to the worker to explain that section 49 of the *Workers Compensation Act* (Act) requires that prohibited action complaints be filed within one year. The letter also explained that WCAT has no ability to extend that time. The appeal officer advised that she would recommend dismissing the appeal of WorkSafeBC's decision under section 31(1) of the *Administrative Tribunals Act* because it had no reasonable prospect of succeeding and because WCAT has no jurisdiction to grant what he wants.
- [9] Section 31(1) of the *Administrative Tribunals Act* requires that appellants have an opportunity to make written submissions or be heard before their appeal is dismissed under that section, so the appeal officer asked for the worker's submission about her recommendation to dismiss his appeal. The worker responded in writing. He says there were special circumstances that precluded him from filing his complaint in time. He has outlined a variety of medical, financial, cultural and informational barriers that he faced after being terminated from his employer.
- [10] The Act sets out several time limits, such as the time limit to file a compensation claim (one year), the time limit to file a prohibited action claim (also one year), or the time limit to ask for review or appeal of a WorkSafeBC decision. Some of these provisions (such as section 151, which deals with the time limit to file a claim for compensation) permit parties to file late where special circumstances precluded them from filing on time. However, there is no similar exception in section 49, which deals with the time limit for prohibited action complaints. Section 49 does not reference special circumstances at all.
- [11] The worker filed a submission saying that section 49 contains an implicit exception that allows a prohibited action complaint to be filed late. He wrote that the *Prevention Manual* permits late complaints to be filed within one year. He cited two WCAT decisions which he says stand for the authority that WCAT can address whether a late filing should have been permitted.
- [12] I do not accept that section 49 contains an implicit exception. The provisions of the Act that allow for late filing where there are special circumstances (such as section 151) are explicit about the ability to file late. If the legislature had intended to allow workers to file their prohibited action complaints after the one-year time limit, they would have set out that exception in the statute, like they did in section 151. Since they did not, I conclude that there is no such exception. Unless a complaint is filed in one year, it cannot go ahead.

- [13] There are other problems with the worker's submission. The policy cited by the worker is not a current policy and does not say what the worker says it does. The cases he has cited either do not exist, or do not have anything to do with what he has cited them for.
- [14] The worker wrote that policy D3-115-1 of the *Prevention Manual* recognizes that a late prohibited complaint can be accepted where there are special circumstances. However, the only mention of special circumstances in the *Prevention Manual* is in policy P2-95-6 (OHS Penalties & Claims Cost Levies – Effect of Application for Stay at Review Division) and relates to requesting a review of an occupational health and safety penalty. Policy D3-115-1 is not a current policy in the *Prevention Manual*. It is a policy that existed before the Act was renumbered in April 2020, and it relates to employer's obligations to their workers. It has nothing to do with late applications of prohibited action complaints (or, as they were then known, discriminatory actions complaints).
- [15] The worker also cited two cases which he says confirm that WCAT can – and does – address whether a late filing ought to have been excepted. The first case has nothing to do with late filings on prohibited actions, or late filings in any other context. The other citation he provided was for a 2019 case. The citation was in an older format that was not being used by WCAT in 2019. When I tried to locate the case using WCAT's current format (A-last two digits of year and number), I found an appeal that also has nothing to do with late filings or prohibited actions.
- [16] The worker also wrote that section 2 of the Act directs decision-makers to interpret the legislation in a way that favours prevention of workplace harm. In fact, section 2 of the Act is about the application of the occupational health and safety provisions.
- [17] It appears that the worker's submission was created, at least partly, with the use of artificial intelligence. It is widely known that large language-based artificial intelligence models can prepare lengthy submissions that sound like they were written by a person with expertise. However, these models can also "hallucinate" legal cases, meaning they make them up. (See, for example, *Zhang v. Chen*, 2024 BCSC 285 at paragraph 38, or *Geismayr v. The Owners, Strata Plan KAS 1970*, 2025 BCCRT 217 at paragraph 25). The worker's submission contains these types of hallucinations. If the worker did not use artificial intelligence to prepare his submission, the only other reasonable explanation is that he deliberately fabricated the policy and cases. I find it more likely he did not fabricate the cases, but that artificial intelligence did.
- [18] There is nothing in WCAT's *Manual of Rules of Practice and Procedure* right now that prevents parties from relying on artificial intelligence. However, parties have an obligation in WCAT's Code of Conduct not to put forth information that is known to be untrue. Given the known limitations of artificial intelligence, in my view this obligation includes, at minimum, an obligation to make sure any cases, laws or policies cited in a submission created by artificial intelligence relate to the issue they are being cited for. I accept that artificial intelligence can be an

exceptionally helpful tool at times. However, while the technology continues to evolve, at the moment it is not a reliable tool for legal research and it should not be relied on for legal cases.

- [19] Tribunal decision-makers have an obligation to provide sufficient reasons for their decisions, but decision-makers at some tribunals (see for example *AQ v. BW*, 2025 BCCRT 907) have concluded that this duty does not include the obligation to respond to submissions concocted by artificial intelligence which have no basis in law. Therefore, parties who rely on artificial intelligence should be aware that their arguments may not be addressed if they are not based in law.
- [20] I also caution that, under the *Workers Compensation Act Appeal Regulation* and item 16.2 (Costs) of the *Manual of Rules of Practice and Procedure*, appeal tribunals can award costs to another party where the other party caused costs to be incurred without reasonable cause. Trying to sort through and locate cases and policies that, ultimately, are found not to exist, can take a lot of additional time for both the decision-maker and the other party to the appeal. Someone who uses artificial intelligence can generate a submission with a simple prompt. The people who must review this submission may need to spend considerably more time assessing its accuracy. Tribunals and courts who have the authority to award costs have done just that in cases where parties provide inaccurate submissions prepared by artificial intelligence (see e.g. *Simpson v. Hung Long Enterprises Inc.*, 2025 BCCRT 525).
- [21] Perhaps the most significant problem with the worker's artificially-generated submission is that, because of its inaccuracy, it has not helped the worker's case.
- [22] I agree with the appeal officer's recommendation. There is no authority under the Act or policy that gives WorkSafeBC or WCAT the authority to consider a prohibited action complaint that was filed more than one year after the (alleged) prohibited action.
- [23] I have considered ordering costs in this case because of the worker's reliance on artificial intelligence to create hallucinated submissions but have not done so because I have been able to dismiss this appeal at an early stage, before inviting any other party's participation.

Conclusion

- [24] The worker's appeal is dismissed as authorized under section 31(1)(a) and (f) of the *Administrative Tribunals Act*. His appeal of the decision to dismiss his prohibited action complaint has no reasonable prospect of succeeding, and WorkSafeBC and WCAT have no jurisdiction to permit his complaint to be accepted even though it is late.

Hilary Thomson
Deputy Registrar