

A2501881 (Re), 2026 CanLII 101469 (BC WCAT)

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DECISION OF THE WORKERS' COMPENSATION APPEAL TRIBUNAL

WCAT Decision Number:	A2501881
WCAT Decision Date:	August 6, 2026
Panel:	Ryan McFarlane

Introduction

- [1] This application is about whether the worker should receive an extension of time to appeal a Review Division decision.
- [2] On December 3, 2019, the Workers' Compensation Board (Board), operating as WorkSafeBC (Board) denied the worker's claim for a mental disorder.
- [3] On July 23, 2020, the Review Division confirmed the Board's decision in *Review Reference #R0261782*.
- [4] The worker filed her notice of appeal with the Workers' Compensation Appeal Tribunal (WCAT) on August 15, 2025, outside of the statutory deadline to do so and seeks leave to appeal this decision late. The worker is represented by her union. The employer is not participating.

Jurisdiction and Procedure

- [5] Section 293(3) of the *Workers Compensation Act* (the Act) permits the chair of WCAT to extend the time to appeal in limited circumstances. The chair has delegated the authority under section 293(3) to all WCAT vice chairs.
- [6] On August 21, 2025, the worker provided WCAT with her extension of time application and submissions. WCAT wrote to the worker on January 2, 2026, to invite her to provide any further submissions or documents she may have on or before January 23, 2026. The worker missed this deadline. Nonetheless, on February 10, 2026, the union representative asked WCAT to permit the worker to send in a late submission. I allowed the union representative's request, and the union representative provided further submissions.

Issue(s)

- [7] The issue in this application is whether the worker should receive an extension of time to appeal *Review Reference #R0261782*.

Background and Evidence

- [8] The worker, a psychologist, started a claim with the Board for a mental disorder on January 25, 2019.
- [9] On December 3, 2019, the Board denied the worker's claim for a mental disorder related to alleged bullying and harassment incidents between September 2017 and June 12, 2019.
- [10] The worker filed her own request for review with the Review Division on February 27, 2020. In the form, the worker wrote that she was in a car accident on February 14, 2020, and suffered a concussion.
- [11] On July 23, 2020, the Review Division confirmed the Board's decision denying the worker's claim for a mental disorder. The cover letter accompanying this decision, under the heading "appeal information – important deadline [emphasis removed],"¹ included the following statement: "[i]f you wish to appeal my decision, you must do so within 30 days of the date of this letter [emphasis removed]."
- [12] WCAT received the worker's notice of appeal and extension of time application concerning *Review Reference #R0261782* on August 21, 2025.

Submissions

- [13] The worker writes that severe health issues and incapacity prevented her from filing her notice of appeal within the 30-day deadline to do so.
- [14] The worker further notes that her notice of appeal was delayed beyond the 30-day deadline due to ongoing workplace harassment which affected her health as well as COVID-19.
- [15] The worker also notes that she would suffer the following injustice if her application was not granted: "[d]enial of procedural fairness[,] [p]erpetuation of incorrect/unfair decisions, [l]oss of entitlements [and] benefits[, and] [e]rosion of confidence in the compensation system."
- [16] In an attached statement, the worker writes that the deadline to appeal the July 23, 2020 Review Division decision was 90 days. The worker submits that she was experiencing severe psychological injury from her alleged workplace harassment including "major depression, PTSD [post-traumatic stress disorder], and suicidal ideation...." The worker submits that she had to move in with her parents as a result and that her focus was entirely on maintaining her immediate safety and stabilizing her mental health. The worker notes that she was unable to "read, comprehend, or meaningfully engage with the decision letter beyond noting that [her] claim had been denied." The worker submits that she was "not emotionally or cognitively capable of initiating an appeal."

¹ All quotations are reproduced as written, unless otherwise noted.

- [17] However, the worker also states that she read the fact that she was not successful on review when she received the Review Division decision. The worker says that she was not well enough to read or process the decision until a year and a half later. Despite that, the worker says that she was entirely focused on her basic functioning, safety, and medical treatment at that time and did not form a plan to appeal the decision because she was not capable of understanding it "or the procedural steps required" and did not know that it was possible to request an extension of time.
- [18] The worker submits that she was under "active medical care for serious psychological injury" following the 2020 decision. She wrote that her condition was unstable and fluctuated significantly. The worker states she continued to be harassed and was "involved in active grievances and meetings concerning harassment and discrimination." The worker states that these activities required her to focus on the most pressing matters at any given time but did not involve revisiting the 2020 Review Division decision. The worker states that these matters were "reactive and unavoidable. They addressed immediate and continuing workplace harm. Initiating a WCAT appeal would have required revisiting the 2020 denial decision and fully re-engaging with the underlying traumatic events," which, the worker says, was contrary to her treating professionals' advice. The worker also wrote that her medical providers "consistently advised that engaging in adversarial legal processes involving the [employer] would pose a serious risk to [her] mental health and could trigger decompensation." The worker did not advise what medical providers she was engaged with during this time or who provided such advice. The worker stated that she was unable to engage in "additional adversarial legal process[es] until late 2024, when [her] condition stabilized sufficiently to attempt to address [her] WorkSafe claim again."
- [19] The worker states that her condition improved in late 2024 to the point where she attempted to file another claim with the Board for workplace harassment believing that they would deal with everything comprehensively. The worker said that the Board told her that the only way to address the earlier incident would be to appeal the Review Division decision. The worker said that she then promptly contacted the "relevant agencies and sought clarification on the process."
- [20] The worker refers to items 22.4.1 and 22.4.3 of WCAT's *Manual of Rules of Practice and Procedure* (MRPP). I am unsure what items the worker is referring to given that WCAT's MRPP ends at item 21.4.
- [21] The worker submits that the workplace harassment continued following the Board's decision and it "at times escalated, consuming [her] ability to address legal or administrative matters." The worker believed that the Board treated ongoing harassment the same as grievances and human rights proceedings where "in ongoing harassment cases the incidents could be considered as a whole based on the last incident date."

- [22] In support, the worker refers to a Board publication regarding workplace bullying and harassment from 2023 entitled: *Towards a respectful workplace: A handbook on preventing and addressing workplace bullying and harassment* (Towards a Respectful Workplace). The worker included the following quotation from page 44:

Investigators should seek to understand the full context in which the incidents occurred and the evolution of the behaviour over time. This is particularly important when the reported behaviour reflects a pattern or series of actions that individually may appear minor but collectively may constitute bullying and harassment.

- [23] Subsequently, the worker allegedly quoted from the same page of this article as follows:

In some cases, bullying and harassment may be a pattern of behaviour rather than a single incident. A full and fair investigation should consider the whole situation, including previous incidents or conduct that may be relevant to the complaint.

- [24] I searched Towards a Respectful Workplace, including page 44 and beyond, and cannot find either quote contained therein.
- [25] The worker submits that she filed her notice of appeal once she found out that “earlier incidents could not be excluded, and therefore that no separate appeal deadline applied.” The worker does not explain how she found out that she needed to file a notice of appeal.
- [26] The worker submits that the Review Division decision was issued during height of the COVID-19 pandemic when “medical, legal, and psychological support services were severely disrupted,” thereby creating barriers to “accessing assistance and understanding the appeals process.” The worker submits that “WCAT policy recognizes that such extraordinary events may constitute special circumstances” but does not reference a policy in this regard.
- [27] The worker points to various pieces of what she describes as new evidence that could not reasonably have been secured earlier. The worker states that “[t]his new evidence meets WCAT’s criteria where ‘relevant new evidence has become available which could not reasonably have been obtained’....” The worker attributes this quote to item 22.4.3 of WCAT’s MRPP which again does not exist.
- [28] The worker states that she was unable to ask someone to appeal the Review Division decision on her behalf. She states that she was not functioning at a level that would allow her to provide instructions, gather materials, or meaningfully participate.
- [29] The worker says that she had union representation up until May 2024, but that this person was unable to assist her with a WCAT appeal. The worker does not explain how she knows this prior

union representative was unable to help her with an appeal to WCAT. Nonetheless, the worker's current representative became involved with this matter after May 2024; however, the worker says that they only addressed urgent matters at the start and only discussed the Review Division decision in early 2025 "once [she] understood that pursuing a WCAT appeal was necessary to address the earlier incidents and once [her] condition had stabilized sufficiently to revisit the 2020 decision." The worker said that she was unable to organize or instruct her representative prior to that point for a WCAT appeal.

- [30] The worker's submissions address, in part, the merits of her underlying appeal which is not before me. As such, while I have reviewed the worker's submissions in their entirety, I have not summarized the worker's submissions in this regard as they are not relevant to the matter I must decide.
- [31] The worker submits that allowing her extension of time application would not prejudice the employer because she says that their "position is already document[ed], the events are recorded, and witnesses remain available."
- [32] The worker attached a May 11, 2025 letter from Dr. Morley, a registered psychologist. In this letter, Dr. Morley wrote that he has been treating the worker since March 2021 and that the worker presented with "severe depression, anxiety, and post-traumatic stress connected to her experience of workplace harassment and sexual harassment at work...." Dr. Morley wrote that, according to the worker's history, her symptoms started in 2018 and increased until she was unable to engage in meaningful work after August 2019. Dr. Morley noted that the worker went on medical leave and that her symptoms increased during this time due to her interaction with the employer. Dr. Morley wrote that the worker was unable to return to work through a gradual return-to-work plan.
- [33] Dr. Morley noted that the worker's symptoms escalated in mid-2020 and that she had to move back in with her parents in March 2020 to have the daily support she needed. Dr. Morley noted that the worker lived with her parents until late 2022 when she was well enough again to live on her own. Dr. Morley noted that the worker continues to reside in her parents' city because she continues to be highly dependent on her family for support albeit that need is gradually reducing.
- [34] Dr. Morley noted that the worker's diagnoses cause her to have symptoms of avoidance, difficulty concentrating, intrusive memories, and fatigue, particularly when dealing with matters involving the employer. Dr. Morley wrote that these symptoms make it difficult for her to complete tasks and meet deadlines even when those tasks and deadlines are important to her.
- [35] Dr. Morley wrote that it is his "opinion that [the worker] was not able to engage appropriately in any complaint or appeal process from 2020" until the present due to her mental health conditions.

- [36] The worker also attached a June 25, 2025 letter from Dr. Pusztai, a psychiatrist. Dr. Pusztai noted that she started seeing the worker in July 2022 and relied on Dr. Morley's information obtained from the worker about her history before that date. Nonetheless, Dr. Pusztai wrote that the worker had ongoing and worsening symptoms between 2020 and 2022 which precipitated the worker's referral to her.
- [37] Dr. Pusztai wrote that the worker was distractable, overwhelmed, depressed, and had significant anxiety and post-traumatic stress symptoms in 2022. Dr. Pusztai noted that she had to write several notes to her employer in 2022 to get them to stop calling and harassing her at home when she was on medical leave.
- [38] Dr. Pusztai opined that the worker was significantly mentally ill from 2018 onwards and that her treatment of the worker caused a slight improvement in symptoms such that she is more able to deal with forms such as appeals.
- [39] She also noted that she understood why the worker thought "it was a single incident that should be considered and did not realize that she had to appeal the process" because her workplace harassment and sexual harassment continued after she started seeing Dr. Pusztai.
- [40] Dr. Pusztai wrote that the worker's symptoms only started improving after the harassment stopped.

Law and Policy

- [41] Subsection 293(1) of the Act states that an appeal of a final decision made by a Board review officer under Part 6 of the Act must be filed within 30 days after the decision being appealed was made.
- [42] Subsection 293(3) of the Act states that WCAT may extend the time to file a notice of appeal if WCAT is satisfied that special circumstances existed which preclude or precluded the party from filing the notice of appeal with WCAT within 30 days after the decision being appealed was made and an injustice would result if the extension of time is not granted.
- [43] Subsection 344(2) of the Act provides that a document that must be served is deemed to have been received eight days after it was mailed.
- [44] Item 8.2 (Extending the Time to Appeal) of WCAT's MRPP provides that WCAT adds eight days to the time to allow for mailing pursuant to subsection 344(2) of the Act.
- [45] Item 8.2.2 (Special Circumstances Precluded) of the WCAT's MRPP states that panels will not consider the merits of the appeal when deciding on the extension of time application. Item 8.2.2 states that special circumstances must preclude the party from filing the appeal on time. The definition of the word "special" includes "unusual," "uncommon," "exceptional," and

“extraordinary.” Preclude does not mean “absolutely prevent” but may include “prevent,” “hinder,” “impede,” or “delay.”

[46] Item 8.2.2 includes a non-exhaustive list of factors that WCAT may consider when determining whether special circumstances precluded the party from filing the appeal on time. This list includes:

1. the date on which the applicant actually received the decision under appeal;
2. if there was a delay in the applicant receiving the decision, the reason for the delay;
3. whether the applicant was aware of the right to appeal and the time limit for initiating the appeal;
4. whether there was a clear and significant error of fact, law, or policy in the decision of which the applicant could not reasonably have been aware;
5. whether the applicant has obtained significant new evidence that would support the appeal which, when the time limit to appeal expired, either did not exist or existed but was not discovered and could not through the exercise of reasonable diligence have been discovered; and,
6. whether the applicant took all reasonable steps to ensure a timely appeal.

Reasons and Decision

[47] I deny the worker's application for an extension of time. My reasons follow.

[48] I accept the worker's evidence that she read the Review Division decision when she received it and understood that they denied her review.

[49] I find that the worker had access to assistance to file her notice of appeal during the appeal period if she wished to do so. The worker was part of a union and could have asked for representation and/or assistance from them to file her notice of appeal. I acknowledge the worker's evidence that a prior union representative was unable to assist her in this regard but give this evidence little weight. I do so because the worker has not explained why this prior union representative was unable to assist her or why she was unable to approach another union representative, another union local, or the overarching union for assistance.

[50] I also find that the worker's submission in this regard is contrary to her evidence that she was involved in grievances and meetings concerning harassment and discrimination. While I acknowledge the worker's evidence that these processes were “reactive and unavoidable” it nonetheless supports a finding that the worker had capacity to engage in adversarial process despite her submission to the contrary.

- [51] In other words, I find the worker did not lack the capacity to instruct a representative, gather materials, or meaningfully participate during the appeal period, I give her evidence little weight. The worker had the capacity to participate in other processes. She had the capacity to read the review decision and understood its outcome. I do so because not only did the worker have a union representative in other matters, but also the July 23, 2020 Review Division included WCAT's phone number and information about how to contact the Workers' Advisers Office for advice and assistance.
- [52] I find that the worker could have called WCAT during the appeal period to start an appeal by phone and/or could have called the Workers' Advisers Office for advice and/or assistance to do so. I take notice that starting an appeal with WCAT is not a complex or arduous process.
- [53] As an aside, much of what the worker provided through artificial intelligence was not helpful at best and actively misleading at worst. Parties to an appeal are responsible for what they provide to the WCAT whether they generate it themselves, through a representative, or through artificial intelligence. As I already noted, the worker referenced materials that do not exist and presented them as if they both existed and were legitimate. While I understand that people may make use of these programs to assist them to engage with the WCAT, they are nonetheless responsible for the content that they submit. I acknowledge that the worker provided evidence that she suffers from psychological symptoms which affects her functional ability. However, I would encourage her to be more discerning with what she provides to administrative bodies charged with adjudicating matters that affect her entitlement.
- [54] I give Dr. Morley's opinion that the worker could not have appropriately engaged in any complaint or appeal process little weight. I do so in part because Dr. Morley did not explain this opinion such that it appears to be more akin to advocacy than a neutral and unbiased opinion. Additionally, I do so because Dr. Morley's evidence is in stark contrast to the worker's own evidence that she engaged in other complaint processes. I further give Dr. Morley's evidence little weight because Dr. Morley did not treat the worker during the appeal period and therefore appears to have only relied on the worker's self-reported evidence from that timeframe.
- [55] I also give Dr. Pusztai's opinion that the worker did not realize that she had to appeal the Review Division decision because "it was a single incident that should be considered" and the harassment continued little weight. I do so because it is also contrary to the worker's evidence that she did not file the appeal because she could not revisit the 2020 Review Division decision. The worker's evidence suggests to me that the worker made the decision not to revisit the events surrounding her complaint rather than simply misunderstanding the need to do so. Additionally, as with Dr. Morely's evidence, I give Dr. Pusztai's evidence little weight because she too did not treat the worker during the appeal period and therefore her opinion appears to largely be based on the worker's self-reporting. Consequently, I find that Dr. Pusztai's opinion is not helpful in determining the worker's capacity during the appeal period and I give it little weight.

- [56] While I appreciate the worker's evidence that she lacked the capacity to file her appeal, I am not persuaded that that was the case. I find that she not only had access to assistance to do so, but also WCAT was a phone call away. Additionally, I am not persuaded that she lacked the requisite capacity to take these steps based on her self-reported evidence given that she had the assistance of a union representative who was representing her in other matters. I am also not persuaded given that the medical evidence tendered is from providers who were not treating her during the appeal period and therefore had no firsthand knowledge of her capacity during that material time.
- [57] I give the worker's evidence that she had 90 days to appeal the July 23, 2020 decision little weight. In doing so, it is unclear to me whether the worker submits that she missed the deadline to appeal the decision because she believed that she had 90 days to file her notice of appeal or whether the reference to 90 days was a typographical error. Regardless, the Review Division's decision included clear and bolded wording that the worker had 30 days from the date of the decision to appeal. While I appreciate that the worker had 90 days to review the Board's initial decision, the Review Division decision does not have any mention of 90 days, much less a 90-day deadline.
- [58] In summary, I am not persuaded that the worker's reasons for not filing her notice of appeal during the appeal period amount to special circumstances.
- [59] Having found that no special circumstances precluded the worker from filing her appeal on time, it is not necessary for me to consider the worker's submissions on whether an injustice would result if her application for an extension of time was denied.

Conclusion

- [60] I deny the worker's application for an extension of time to appeal *Review Reference #R0261782*.
- [61] I make no orders regarding reimbursement of expenses because the worker did not ask for reimbursement in this regard and because none are apparent to me.

Ryan McFarlane
Vice Chair