

REVIEW DECISION

Re: **Review Reference #: R0331667**
 Board Decision under Review: August 17, 2023

Review Reference #: R0331666
 Board Decision under Review: September 29, 2023

Review Reference #: R0331665
 Board Decisions under Review: November 3, 2023

Date: **January 15, 2025**

Review Officer: **Nick Attewell**

This decision relates to three inspection reports ("IRs") issued to the applicant's employer by the Workers' Compensation Board ("Board"), which operates as WorkSafeBC. The IRs were:

- An August 17, 2023, IR required the employer to provide a summary of the investigation related to the applicant's complaint of bullying and harassment by the end of the business day on August 18, 2023.
- A September 29, 2023, IR found that, based on the evidence provided by the employer, the employer's response was not responsive to the matter and was not compliant with the Board's requirements. The gaps were identified in the IR. The employer was required to provide a thorough investigation summary by October 13, 2023.
- A November 3, 2023, IR stated that a follow-up inspection was conducted and, based on the evidence provided by the employer, the employer's response was compliant with the Board's requirements.

The requests for review were received on November 29, 2024.

Issue

Should the applicant's request for an extension of the 45-day statutory time limit to request reviews of these decisions be allowed?

Reasons and Decision

Before an extension of time can be granted, section 270(2) of the *Workers Compensation Act* (“Act”) says the Chief Review Officer must be satisfied that special circumstances precluded the applicant from filing a request for review on time. If special circumstances are found, the Chief Review Officer must then decide whether an injustice would result if an extension was denied and, if so, consider whether to exercise the statutory discretion to grant an extension of time. Guidance in deciding whether to grant an extension of time is found in the published Review Division’s *Practices and Procedures* (“Procedures”), Items A2.4.2. to A2.4.2.6. Pursuant to section 274 of the *Act*, the Chief Review Officer has authorized me to make decisions on requests for extensions of time.

The applicant submits that she originally emailed her request to the Board officer but did not take the proper online steps. Time passed. She felt defeated and gave up. She then became aware she could ask for a review and an extension. She provides copies of several documents, including:

- October 7, 2024, letter from her lawyer to the employer regarding a claim for constructive dismissal as well as other communications from the lawyer.
- Responses from the employer’s lawyer.
- Detailed notes by the applicant as to what happened in her workplace.
- December 7, 2024, email from the Board officer to the applicant stating that her complaint was addressed in the three attached IRs summarized above.

It is not necessary to consider whether special circumstances precluded the applicant from requesting reviews of the August 17 and September 29, 2023, IRs. No injustice arises from denying those requests. No reviewable issue arises from the August 17 IR as it was simply a demand for information from the employer. Furthermore, it does not appear that the applicant is disputing the August 17 and September 29 IRs. It is not likely that she objects to information being demanded from the employer or the September 29 decision that the employer had not by that date complied with the Board’s requirements. She clearly does object to the finding on November 3, 2023, that the employer was then in compliance. I will consider whether special circumstances exist for that decision.

Like the prior IRs, the November 3, 2023, IR included information on the right to request a review and the 45-day time limit. The Board officer’s email of December 7, 2023, repeated this information.

The applicant says that she emailed her request to the Board officer but does not provide a copy or indicate when it occurred. Furthermore, there has been a significant overall delay of about a year for which the applicant says that she felt

defeated and gave up. This brief and unsupported statement is not a sufficient basis for granting an extension of time. If she was unaware of the right to apply for an extension of time, she could have easily made inquiries about this from the Board or elsewhere.

I do not accept that special circumstances precluded the applicant from filing requests for review on time. There is, therefore, no need to determine whether an injustice results from this request being denied. However, considering the nature of the August 17 and September 29, 2023, IRs and the very long overall delay that has occurred, I consider there are grounds for finding that no injustice results from denying those requests.

Conclusion

I deny this application for an extension of time to file requests for review of the August 17, September 29 and November 3, 2023, decisions.

Nick Attwell
Review Officer
Review Division