



**CRIMINAL INJURIES COMPENSATION BOARD**

**HAVE YOU BEEN A  
VICTIM OF A CRIME OF  
VIOLENCE IN ONTARIO?**

**GUIDELINES TO THE PUBLIC**

**Revised: June 2009**

The **Criminal Injuries Compensation Board** (Board) is an independent quasi-judicial adjudicative agency that compensates victims of crimes of violence that occur in Ontario. It is established under the *Compensation for Victims of Crime Act* and is subject to the *Statutory Powers Procedure Act* and the *Freedom of Information and Protection of Privacy Act*.

The legislation to compensate victims of crime has existed in Ontario since 1967, first as the *Law Enforcement Compensation Act* (LECA, 1967) and then in 1971 as the *Compensation for Victims of Crime Act* (CVCA, 1971). The Board is the agency responsible for implementing this important mandate.

This guide is not exhaustive, but is intended to assist claimants who are applying for compensation and to provide the public with a general understanding of the Board's processes, including an overview of:

- the Criminal Injuries Compensation Board and its practices;
- the different steps involved in the application process.

Over the past few years the Board has experienced an increase in the number of applications requested and in the volume of applications submitted. As an alternative to contacting us by telephone, we hope that tools such as these guidelines and the Board's website will provide you with additional assistance as you navigate through the application process.

The Board provides services in both English and French. For more information and/or assistance, please contact us at:

Criminal Injuries Compensation Board  
439 University Avenue, 4<sup>th</sup> Floor  
Toronto, Ontario M5G 1Y8

Telephone: 416-326-2900 or Toll Free: 1-800-372-7463  
Fax: (416) 326-2883  
Web: [www.cicb.gov.on.ca](http://www.cicb.gov.on.ca)

# Table of Contents

Overview .....	Page 2
Section 1: The Board .....	Page 4
Section 2: Who Can Apply .....	Page 5
Section 3: What Kind of Compensation is Available to Me? .....	Page 6
Section 4: When Do I Apply .....	Page 7
Section 5: Requesting an Extension .....	Page 8
Section 6: Applying to the Board .....	Page 9-11
Section 7: The Hearing .....	Page 12-14
Section 8: The Board Order (Decision) .....	Page 15-16
Section 9: Requesting a Review or an Appeal of the Decision .....	Page 17
Section 10: Overview of the Application Process .....	Page 18

# Section 1: The Board

The **Criminal Injuries Compensation Board** is an independent, quasi-judicial adjudicative agency of the Ministry of the Attorney General.

The Lieutenant Governor in Council appoints the Chair and members of the Board. The Board, in its decision-making powers, is independent of the Ministry of the Attorney General. The Chair reports to the Minister.

The Board accepts and adjudicates applications for compensation for persons who have sustained injuries or death as a result of a crime of violence that occurred in Ontario.

The Board provides a fair, caring and sensitive forum for people who have been affected by crimes of violence to be heard. Former claimants have indicated that the hearing process provides an opportunity for affirmation and recognition of their experiences. The Board recognizes that monetary compensation can never in itself make up for the injuries suffered by victims of crime.

Neither the Board nor the *Compensation for Victims of Crime Act (the Act)* undertakes to fully compensate victims of crimes of violence. The maximum amounts of compensation awarded by the Board are limited by statute and all victims maintain their right to seek recourse through the civil courts.

Because every victim's experience is unique, the Board considers each claim on an individual basis.

## Section 2: Who Can Apply?

Section 5 of the *Compensation for Victims of Crime Act* provides that only a **person who has been injured as a result of a crime of violence constituting an offence against the *Criminal Code (Canada)* is eligible to submit an application.**

Section 5(a) of the *Act* excludes motor vehicle accidents except where the vehicle was used deliberately to injure the victim. In such a case, the applicant would be required to prove that this was the intent of the driver.

Examples of *Criminal Code* offences include assault, sexual assault, criminal harassment, attempted murder, murder, etc.

You may **also** be eligible for compensation if:

- You suffer a loss of employment earnings or incur expenses as a result of being responsible for the care of a victim of crime who suffered injury or death,
- You are a dependant of a deceased victim (in the case of murder) or,
- You were injured while trying to prevent a crime or while helping a police officer make an arrest.

In some instances, you may file a claim for yourself or your dependants for the injury known as mental or nervous shock. The website contains a fact sheet outlining the criteria that the Board considers when making decisions on this type of claim.

Section 11 of the *Act* states that proof of conviction shall be taken as conclusive evidence that the offence has been committed. However, even if there is no conviction or charges laid, your claim is still considered eligible as Section 16(1) of the *Act* provides that compensation may be awarded whether or not a person has been prosecuted or convicted of the offence giving rise to the injury or death.

The Board does not award compensation for property damage, theft or legal fees incurred for criminal and/or legal proceedings.

## Section 3: What Kind of Compensation is Available to Me?

Where adequate proof exists, the Board may award compensation for the following:

- **Treatment – Medical, Dental and/or Therapy Expenses:** this includes ambulance fees, eyeglasses, prescriptions; treatment required to bring teeth back to the pre-injury condition; or sessions provided by an accredited therapist as a result of the incident. Only expenses not payable by any other source can be considered.
- **Funeral and Burial Expenses:** this includes the cost of a funeral director, clergyman, casket, cemetery plot, grave marker, newspaper notices, death and birth certificates. The maximum award for these expenses is \$9,000.
- **Legal representation and costs:** may be considered if a lawyer assists with a claim to the Board, but not for attending a Board hearing or other court proceedings.
- **Travel Expenses:** may be considered if the victim must travel outside of the city where he/she lives to receive treatment or to attend a Board hearing.
- **Pain and Suffering:** may be awarded to a victim of a violent crime. Awards are based on the degree of violence involved in the incident; the seriousness of the injuries sustained; the recovery period and the possibility of a continuing disability as well as other factors depending upon the case.
- **Loss of Employment Earnings:** may be awarded to the victim (or a person responsible for the care of a victim) who is unable to work because of injuries arising from the incident. The maximum award is \$250 per week. Any benefits received from other sources will be considered and possibly deducted from this amount.
- **Loss of Support:** may be awarded to the dependants who relied on the deceased victim for financial support at the time of the crime. The Board requires proof of previous financial support to make this kind of award.

## Section 4: When Do I Apply?

Section 6 of *the Act* requires that an application for compensation shall be made **within two years after the date of the injury or death of the victim**; however, the Board may extend the time for filing an application for compensation where it is warranted:

6. *An application for compensation shall be made within two years after the date of the injury or death but the Board, before or after the expiry of the two-year period, may extend the time for the further period it considers warranted. 2000, c. 26, Sched. A, s. 4 (1).*

**If you were involved in a crime of violence that occurred more than two years ago, you must first request an extension of the limitation period in which to file an application to the Board (Please see “Section 5: Requesting an Extension”).**

## Section 5: Requesting an Extension

Section 6 of the *Act* provides that the Board may extend the time for filing an application for compensation where it is warranted. The Board takes into consideration whether there would be enough evidence to support an application and to properly and fairly adjudicate the claim for compensation.

For an extension to be granted, the Board must be satisfied:

- That the incident is a crime of violence as defined under the *Act*,
- That there is satisfactory reason given for your delay in filing the request for an extension,
- That you can provide evidence that will enable the Board to fairly and properly adjudicate the claim for compensation in accordance with the *Act*.

If you are **under 20 years of age** you can make a claim for compensation without asking for an extension of the two-year time limit.

If your request for an extension is **approved**, your application for compensation can proceed. A package containing claim forms will be issued to you along with the letter of extension approval.

If your request for an extension is **denied**, the Board will send you a letter with its decision and the reasons for that decision. You may appeal the Board's decision by way of an application for Judicial Review.

## Section 6: Applying to the Board

### Step 1: Contact the Board

Applications forms are only available through the Criminal Injuries Compensation Board. You can request forms by telephone, fax or mail.

**BY PHONE:** (416) 326-2900 or toll-free 1-800-372-7463

**BY FAX:** (416) 326-2883

**BY MAIL:** Criminal Injuries Compensation Board  
439 University Avenue, 4<sup>th</sup> Floor  
Toronto, Ontario M5G 1Y8

Your initial contact with the Board, whether by phone or by letter, will be with one of our Claims Service Representatives (CSR) who will assist you with starting your claim.

The CSR will ask you a series of questions about yourself and the crime. It is important that you give as much information as possible to assist the CSR in assessing your eligibility for the program (Please see “Section 2: Who Can Apply?”).

### Step 2: The Claim Package (Claim Forms)

Once your eligibility for the program has been determined, a package of claim forms will be mailed to you for completion.

If you are **under 18 years of age**, a parent, legal guardian or other responsible adult must complete the forms on your behalf, including section 08 of the Primary Information form.

If, for whatever reason, you are **unable to complete the forms**, an applicant over the age of 18 may complete the forms on your behalf, including section 08. An explanation for your inability to complete the forms must be sent to the Board along with the completed claim forms.

You may give **permission to another person** to call the Board on your behalf to enquire about the status of your claim. You must provide the Board with an original letter indicating the name of the person to whom you are giving this authorization and your file number. Your letter must be signed and dated. Authorization gives this person the right to access information about the status of your claim. Authorization **does not** give the designated person the right to change any information contained in your claim file, nor

## Section 6: Applying to the Board (continued ...)

does it give the person the right to make requests or receive any of the documentation in the file. This is to protect your privacy and the confidentiality of the documents.

It is important that you review the forms thoroughly before completing them.

If you **require assistance** or have any questions regarding the completion of the claim forms, please contact our Claims Services Unit at the numbers listed in this guide.

The completed forms are your official records to the Board. Therefore, it is important that the information that you submit is accurate and that you provide as much information as possible. Before sending the claim forms to the Board, please make sure that they are **signed and dated**. The completed forms should be sent to the Board as soon as possible. *The Board will **not** process faxed or photocopied forms.*

There is a **file number** on each form. This number must be written on any information or letter sent to the Board. When calling the Board, this file number must be given before any information about the claim can be provided to you.

It is not necessary to have a **lawyer** to file an application with the Board, but you may choose to retain one. If you choose to retain a lawyer, the Board will only communicate with your lawyer. If you require information about your file, it must be obtained through that lawyer. This also applies where you have contracted representation by an agent or paralegal.

### Step 3: Supporting Documents

Once the Board receives the completed Claim Package, signed and dated, your file will be assigned to a Compensation Analyst (Analyst). Given the current volume of applications at the Board this will not happen immediately.

The Analyst will request supporting information to prepare your claim for a hearing and will ask that you provide the Board with any evidence that will support your claim, such as:

- A report from any medical professional or hospital report related to the treatment you received at the time or shortly after the incident
- A statement from a friend or relative who witnessed or was told of the incident at the time.
- Information regarding any Children's Aid Society or police involvement

## Section 6: Applying to the Board (continued ...)

For reports the Board **has requested**, the Board will pay the full cost of each hospital record and up to \$100 for each medical, dental and therapy report. Original invoices should be mailed directly to the Board along with the records and reports. It is important that the file number be noted on each invoice presented to the Board.

If the incident was **reported to the police**, the Board will contact that police service and request a written report about the incident. It would be helpful for you to provide the Board with as much information as possible to enable them to request the police report.

Section 11 of the *Act* states that **proof of conviction** shall be taken as conclusive evidence that the offence has been committed. However, even if there is no conviction, your claim is still considered eligible as Section 16(1) of the *Act* provides that compensation may be awarded whether or not a person has been prosecuted or convicted of the offence giving rise to the injury or death.

### Step 4: Getting Your File Ready for a Hearing

The quicker you are able to get the requested information to the Board, the quicker the Board will be able to schedule your claim for a hearing.

The Analyst will guide you through this step. The Analyst will ensure that all relevant medical, therapy, police and court information (if applicable) is obtained and may request additional information from you to complete your file.

Please note a claim **may not** be scheduled for a hearing until all police investigations and/or court cases have been completed.

Once the Analyst determines that your file is ready to be heard, your file is dispatched to the Hearings Unit where it will then be scheduled for a hearing.

You may apply for an **Interim Payment** under Section 14 of the *Act* in respect of support, medical expenses and funeral expenses. To be considered eligible to receive payments before a hearing, there must be enough proof, such as police and medical records, to lead the Board to conclude that an award would likely be made at the time of the hearing.

The practice of the Board is to consider one interim request.

## Section 7: The Hearing

The purpose of a hearing is to enable the Board to determine whether you are a victim of a crime of violence, if you have been injured as a result of that crime and to determine the amount of compensation, if any, to be awarded.

When deciding whether to make an award for compensation, the Board may consider:

- Whether the incident is an act of violence as described by the *Criminal Code of Canada*. This does **not** include accidents that involve the use of a motor vehicle (unless the motor vehicle is used as a weapon).
- Whether there is enough reliable information available to support the claim.
- The victim's cooperation with, or failure to promptly report the offence to the police.
- Whether or not the claimant contributed to the incident.
- Any benefit or compensation paid or payable to the claimant from any other source, other than Social Assistance.

The Chair of the Board decides the type of hearing that will be held.

A **Written Hearing** is one in which the parties do **not** attend. A Board Member will make a decision after reviewing all the supporting information in your file. You will be notified in writing as to when your application will be heard.

An **Oral Hearing** is one in which the parties do attend, in person or through an electronic connection. You must be present at an Oral Hearing. If, for any reason, you are **not able to attend your hearing**, the Board may, pursuant to Section 7 of the *Statutory Powers Procedure Act*, proceed with the hearing without you and will base its decision on the information in your file.

There are usually two Board members on the Hearing Panel and, one of the members will serve as Chair of the hearing. The Panel may ask you questions about the incident and / or your injuries. Oral Hearings are usually open to the public except when claims involve sexual assault, domestic violence or child abuse.

In order to hold more hearings, reduce wait times for files to be heard and to make it more convenient for the applicants, the Board has hearings in 20 locations across the province: Toronto, Kenora, Thunder Bay, Sault Ste Marie, North Bay, Sudbury, Windsor, London, Ottawa, Niagara Falls, St Catharines, Kitchener, Peterborough, Orillia, Timmins,

## Section 7: The Hearing (continued ...)

Hamilton, Dryden, Sioux Lookout, Kingston and Belleville.

The Electronic Hearing may be used in cases arising from sexual assault, domestic abuse, child abuse or where the applicant has a reason to fear the (alleged) offender. An Electronic Hearing is one where the applicant attends at the location where the hearing Panel is sitting and the (alleged) offender, along with their witnesses attend at another location. The (alleged) offender participates in the hearing by means of a telephone conference call.

The Board decides where and when the hearing will take place and the parties must be ready to proceed at the time and place specified by the Board. Generally, the Board is not willing to grant any adjournments, except under the most urgent circumstances.

### **Additional Information If You Are Having an Oral Hearing**

Persons who attend a hearing of the Board may include the following: the applicant, the (alleged) offender, their legal representatives, and witnesses.

At least 10 days before the hearing, a Notice of Hearing will be sent to the applicant, the (alleged) offender and their respective legal representatives.

The Board serves Notice of Hearing by mail, facsimile or overnight courier. The Board's notice and attachment include the following information:

- Date and Time of the Hearing
- Place of the Hearing
- Purpose of the Hearing and reference to the relevant section of the applicable legislation
- Statement that the Board may proceed in the parties' absence and that absent parties will not be entitled to any further notice in the proceeding

**A child who is the subject of a claim is entitled, but not required, to attend the hearing.**

Interpretation services in several languages can be arranged.

While the Board's Hearings are far less formal than court proceedings, certain procedures and rules of evidence must still be met. For example, parties have a right to legal representation and are sworn or affirmed to tell the truth.

## Section 7: The Hearing (continued ...)

The standard of proof required for Board decisions is the “balance of probabilities” as compared to the standard of “beyond a reasonable doubt” required by the courts in criminal matters. You must therefore prove on a balance of probabilities not only that the crime did occur, but also that as a result of that crime, injury resulted.

The Board may admit and consider any oral evidence, any document or other matter relevant to the proceeding, including hearsay evidence. It may also admit written documents or reports from any source, whether or not produced by the person preparing the document or report. The Board determines the weight of the material in establishing facts.

A party at a hearing may call and examine witnesses and present arguments and submissions reasonably required for a full and fair disclosure of the facts.

The Board has the power to make such orders or give such directions, as it considers necessary, to maintain order at the hearing, and to prevent the abuse of its processes.

If a party wishes to ensure the presence of a **witness** at a hearing, the party must request the Board to issue a summons. If a summons is issued, the party must arrange to have it served on the witness personally with the appropriate attendance fee.

There is **no transcription** offered by the Board. It is the usual practice of the Board not to allow tape recording of hearings; however, if a party wishes to hire a certified court reporter they may make a written request to the Board.

### **Disclosure**

Disclosure of information to the parties shall be made subject to privacy interests, mental health legislation, the need to know the allegations being made, and the need for confidentiality and security concerns.

All information collected by the Board is subject to the ***Freedom of Information and Protection of Privacy Act***.

## Section 8: The Board Order (Decision)

The Board relies upon the verbal and written evidence provided by an applicant, an (alleged) offender, witnesses as well as police reports, court transcripts, medical records and reports, and other specific claim-related documentation when making a decision. It is the responsibility of the hearing Panel to properly weigh the value of each piece of information and then make a decision.

You will receive a written decision by mail between 12 and 20 weeks after your hearing. This written decision, the Board Order, will be mailed along with the award cheque (if any) to your last known address. It is important that you inform the Board of a change of address and or telephone number immediately upon making a change.

The **maximum** amount payable as a lump sum award to an applicant is \$25,000 per incident.

In addition, if more than one person is affected by an occurrence the Board can award a total of \$150,000 to all of the applicants.

Periodic awards can be made in cases where there is permanent injury or loss of support.

- If a periodic award is made, the amount of the lump sum component cannot exceed \$12,500 according to Section 19 (1) of the *Act*.
- The **maximum** amount that may be awarded as a periodic payment is \$1,000 per month up to a total of \$365,000.
- The general practice of the Board is to award periodic payments only for fixed durations. Moreover, these payments can be reviewed by the Board at any time under Section 25 of the *Act*.

### **Applicant's Direction to Pay Lawyer**

The Board ordinarily orders awards to be paid directly to applicants; however, when there is direction by an applicant that the award be paid to a lawyer, the Board will honour this direction, **provided that it is filed prior to or at the Hearing, contains the file number, is witnessed by a third party and signed by the applicant.**

## Section 8: The Board Order (Decision) (continued ...)

### Application to Vary the Board Order

If as a direct result of the incident for which you received compensation from the Board, you require further additional **treatment** (i.e. counseling, therapy, or dental treatment) and if the treatment is not covered by other sources, you may apply, pursuant to Section 25 of the *Act*, to vary the Order to provide for payment of the cost of the proposed treatment. Section 25 of the *Act* also allows for payment of additional compensation in such a manner as the Board sees fit upon consideration of:

- a) any new evidence that has become available;
- b) any change of circumstances that has occurred since the making of the order or any variation thereof;
- c) any other matter the Board considers relevant.

Section 25 Variation of Order requests can only be started after you have received your initial decision and must be made in writing. Requests pursuant to Section 25 of the *Act* must relate directly to the injuries you received in the incident for which you received compensation from the Board. New medical documentation will be requested and should be submitted to indicate the relationship between your present condition and the injuries you received in the incident.

## Section 9: Requesting a Review or an Appeal of the Decision

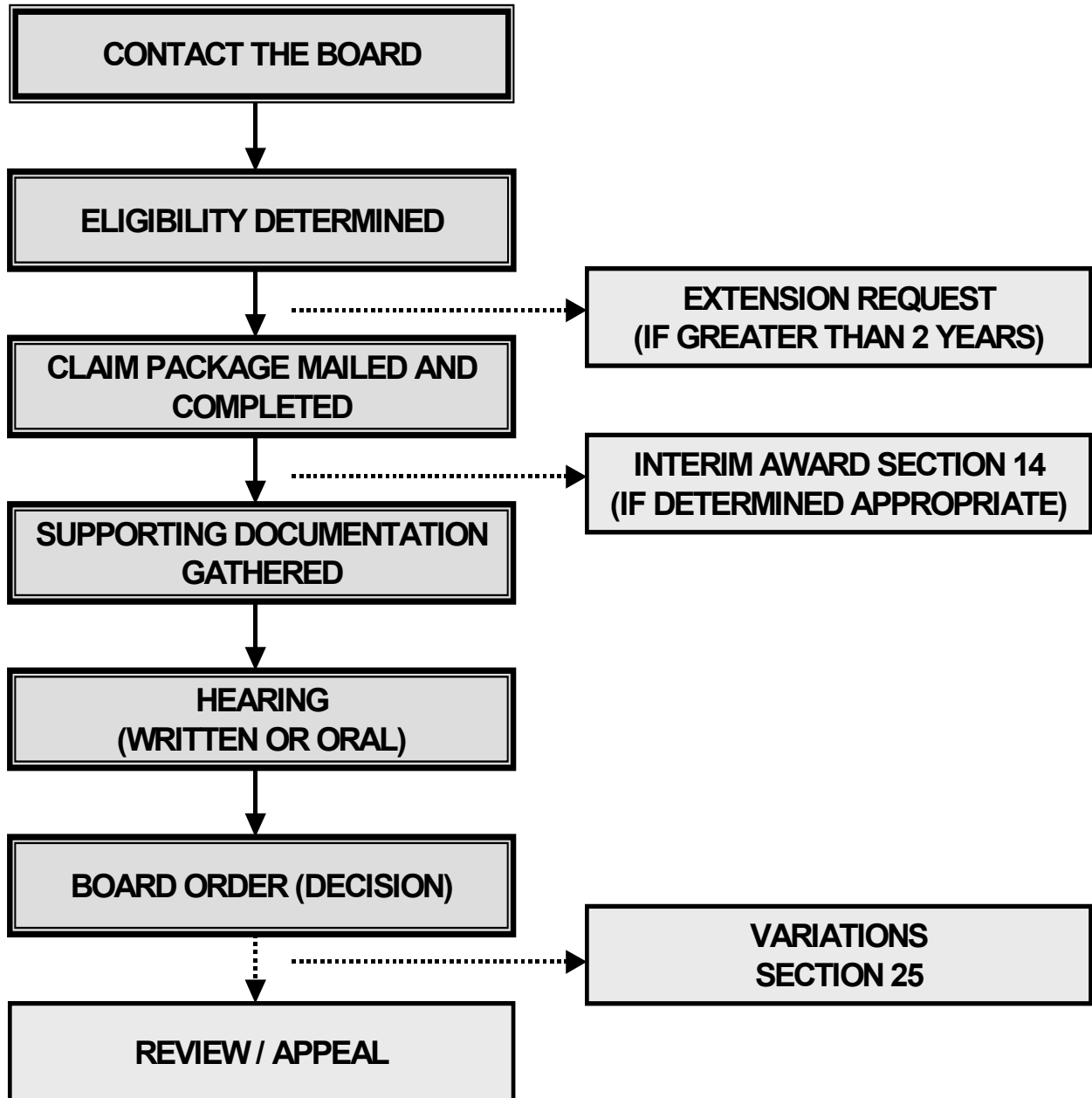
If you are not in agreement with the Board's decision you may request a review or an appeal of the decision.

If a single Board Member made the decision about your claim (Written or Oral), you may make a written request for a Review Hearing before a two-member panel, pursuant to Section 10 of the *Act*. If an award was ordered, **the award cheque must be returned to the Board before the Review Hearing will be scheduled**. A Review Hearing may confirm the original decision, increase or decrease the award, or even deny the claim altogether.

If a Panel of two Board Members made the decision about your claim, under Section 23 of the *Act*, the decision is final, except on an error in law. You can only appeal a two-member decision to the Superior Court of Justice (Divisional Court). The contact information for the Appeal locations across Ontario can be found on the Board's website.

If you would like to appeal a two-member panel decision, you must file a formal Notice of Appeal with the Superior Court of Justice within **thirty days** of receiving the Board Order. You cannot make an appeal to the Court based on the amount of the award. To be successful in an appeal, you must prove that the Board made an error in law.

# Section 10: Overview of the Application Process



**Criminal Injuries Compensation Board**

439 University Avenue

4th Floor

Toronto, Ontario

M5G 1Y8

**Telephone:**

416-326-2900

1-800-372-7463

**Fax:**

416-326-2883

**Web:**

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