

EMPLOYMENT STANDARDS FACT SHEET

COMPLAINT RESOLUTION PROCESS

This document will help you understand the process used by Employment Standards when a complaint is filed. There are several points at which fees are, or may be, assessed to recover some of the costs to the Government of resolving disputes. As well, there are deposit requirements if an employer wants to appeal an order issued by an Employment Standards Officer.

Important Information about Filing an Employment Standards Complaint

A complaint by employee must be filed **within six months** of an employee's last day of employment. In extenuating circumstances, the Director of Employment Standards may extend the time for filing a complaint. In all cases, a complaint should be filed as soon as possible.

Before a Complaint is Filed

1. Employees are expected to attempt to resolve their dispute before filing a complaint with Employment Standards. A Self-Help Kit is available from Employment Standards to assist in this process.

Filing a Complaint

2. An employee files a written complaint. When the complaint is accepted for investigation the employer is notified and provided with a copy of the complaint. The employer is requested to review the complaint and to submit any money owing. If the employer responds with payment as requested, this is forwarded to the employee and the complaint is concluded.
3. If the amount forwarded is less than claimed by the employee the employer is expected to provide supporting records or other information to the investigating officer.
4. The officer assesses the information provided and investigates further as necessary.

Officer Determines Employee is Owed Money

5. Where the officer determines that money is owing to the employee, and the employer pays as requested, the complaint is concluded.
6. If the employer disputes the amount owing, the officer will investigate and undertake appropriate

mediation and resolution efforts. If a voluntary resolution can not be achieved the officer will issue a formal order to pay.

7. If a formal order is issued a 10 percent fee, payable to the Crown, will be added to the assessment (minimum fee is \$100).
8. An order of an officer may be paid or appealed to an umpire.

If the order is **paid** the complaint is concluded.

If the order is appealed the appeal must be received by the Registrar within 21 days from the date the order was served.

An appeal from an employer must be accompanied by a deposit equal to the full amount of the order, including the additional fee, as well as the reasons for the appeal.

An appeal from an employee must provide the reasons for the appeal.

9. The Registrar may initiate mediation of the matter to attempt settlement prior to the umpire hearing.
10. An umpire will conduct a hearing where the parties have opportunity to make their case. The umpire will either revoke (cancel), vary, or confirm the order.

If the umpire **revokes** the order the full deposit is returned to the employer including any fees assessed.

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- Contact our Information Centre at: **427-3731**
(Toll-free in Alberta by dialing 310-0000, then 780-427-3731)
- Visit our Web site at: www.gov.ab.ca/hre/employmentstandards

If the umpire **varies** the order the amount shown as owing on the order, and fees, will be adjusted proportionately. If appropriate, any difference will be returned to the employer.

If the umpire **confirms** the order the employee will receive the money owed.

Note: An umpire has the ability to order either of the parties, where their conduct warrants, to pay costs, including all or part of the Government's cost of conducting the umpire hearing.

Officer Determines Employee is Not Owed Money

11. If the officer determines that the employee is not owed any money, the officer will issue a formal "Decision of Officer". The decision, along with reasons, will be served on the employee. The employer will be informed of the decision.
12. The employee may appeal the decision to the Director of Employment Standards. The appeal, with reasons for the appeal, **must** be received by the Director within 21 days from the date the decision was served. The employer will be notified if an appeal is filed.
13. If the decision is appealed, the Director, or an officer appointed by the Director, reviews the file and will either deny or support the appeal. If the appeal is denied, the employee and employer are notified in writing and the file is closed. If the appeal is supported and the employee is found to be entitled to money, the process outlined in points 5 to 10 will be followed.

Alternative Dispute Resolution

14. The Director and/or the Registrar may undertake initiatives for the voluntary resolution of a dispute before the matter is heard in a formal setting. This may involve mediation or any other process agreeable to the parties.

Collecting Money Owed to Employees

15. If there is reason to believe that an employer has failed or is likely to fail to pay what is owed to an employee, a demand for this money may be served on a third party (a bank or anyone else who may owe the employer money). The third party is obliged to pay the amount demanded to the Director of Employment Standards.

This demand may be issued at any time prior to, during, or after a formal order is made by an officer.

If a court judgment was not obtained prior to the demand being issued, the employer has opportunity to appeal to an umpire the amount to be paid to the employee.

16. If an order is not paid or appealed it will be filed in Court and is then enforceable as a judgment of the Court. The judgment can be turned over to a collection agency for collection. If this occurs, a collection agency fee will be payable **in addition to** the full amount of the judgment.

Employment Standards Office Locations

Edmonton Main Floor, Sterling Place 9940 106 Street Edmonton, AB T5K 2N2	Edson 102, 111 - 54th Street Edson, AB T7E 1T2	Grande Prairie 3101 Provincial Building 10320 – 99 Street Grande Prairie, AB T8V 6J4	St. Paul 5126 50 Avenue St. Paul, AB T0A 3A4	Fort McMurray 714 Provincial Building 9915 Franklin Avenue Ft. McMurray, AB T9H 2K4
Peace River 112, Provincial Building 9621 – 96 Avenue Peace River, AB T8S 1T4	Calgary Suite 150, Elveden Centre 717 – 7 Avenue SW Calgary, AB T2P 0Z3	Red Deer Room 209, Provincial Building 4920 – 51 Street Red Deer, AB T4N 6K8	Lethbridge 360 Provincial Building 200 – 5 Avenue S Lethbridge, AB T1J 4L1	Medicine Hat 103 Provincial Building 346 – 3 Street SE Medicine Hat, AB T1A 0G7