

EMPLOYMENT STANDARDS FACT SHEET

EMPLOYMENT STANDARDS UMPIRE HEARINGS

The following persons may appeal to an umpire:

1. An employer or an employee, who disagrees with the order of an officer
2. An employer, employee, or person affected by a single employer declaration
3. An employer or an employee who disagrees with a Director's collection notice
4. An employer or a prospective employee to whom a minimum wage exemption permit applies
5. An employer who disagrees with a Director's order to reinstate an employee, to pay compensation to an employee, or to pay earnings to an employee
6. A director of a corporation who disagrees with a certificate issued by the Director of Employment Standards

Q. How long do I have to send in my appeal?

A. Section 95 of the *Employment Standards Code* sets out the requirements for an appeal. The notice of appeal must be received by the Employment Standards Registrar within **21** days of the date of service or be postmarked by the Canada Post Corporation within **21** days from the date of service.

Q. Where should I send my appeal in Northern Alberta?

A. The Address of the Employment Standards Registrar in Edmonton is:
Main Floor, Sterling Place
9940 – 106 St., Edmonton, AB T5K 2N2.

Appeals may be faxed to (780)422-4349.

Q. Where should I send my appeal in Southern Alberta?

A. The address of the Employment Standards Registrar in Calgary is:
Main Floor, Elveden Centre, Suite 150
717 - 7 Avenue S.W., Calgary, AB T2P 0Z3.

Appeals may be faxed to (403)297-5843.

Q. What should the appeal contain?

A. The notice of appeal must be in writing and include:

1. The reason(s) for the appeal.
2. If the employer appeals an order, the amount that the employer is required to pay under the order, including the order of officer fee.

The Registrar may waive or reduce the order of officer fee if the Registrar considers that there are extenuating circumstances. Lack of funds is not considered an extenuating circumstance. The Registrar may accept security for the amount payable in another form and amount acceptable to the Registrar.

Q. I missed the deadline for sending in my appeal. Can I still submit my appeal?

A. No. The time limit for receiving appeals cannot be extended for any reason.

Q. I have sent my appeal to the Registrar and it has been accepted. What happens next?

A. The Registrar's office will contact the parties. The Registrar will obtain a date for the hearing and send a notice to the parties detailing the date, time, and location. The Registrar may also discuss alternate ways to resolve the dispute.

Hearings are held in the provincial courthouse in the jurisdiction of the workplace.

Q. What is the role of an umpire?

A. An umpire is granted authority by the *Employment Standards Code* to hear appeals and make awards (decisions). Before the hearing, the umpire reviews the order, declaration, collection notice, or certificate under appeal, the officer's worksheet and the notice of appeal. The umpire may:

- Receive new evidence and may compel the attendance of witnesses
- Award costs
- Confirm, vary, revoke or substitute anything that is the subject of the appeal and issue a written decision
- Do anything that the director or officer could have done under the *Act*
- Direct an employee or employer to attend an educational program in employment standards
- Award costs subject to the regulations

Q. Who are the parties to the appeal of an officer's order? Who can attend the hearing?

A. The parties to the appeal are the employer, the employee, and the Director of Employment Standards. A representative from the Registrar's office attends on behalf of the Director.

Q. Can I bring a representative or witness to the hearing?

A. Parties may bring representatives to present their case, and witnesses to give evidence if they believe it is in their best interests, but are not required to do so.

Q. Why is the Director of Employment Standards a party and what does the Director's representative do at the hearing?

A. Under the *Employment Standards Code*, the Director is a party to every appeal to an umpire and every proceeding resulting from an umpire's award.

At the hearing, the Director's representative presents the Director's interpretation of legislation and explains how the legislation applies to the case.

Q. What kind of evidence should I bring to an appeal of an officer's order?

A. Since the umpire is provided with a copy of the order, declaration, collection notice, or certificate under appeal, the officer's worksheet and the notice of appeal only, it is up to the parties to present the information that supports their case. Parties can bring witnesses who can provide information and answer questions about the issue under appeal. They can also bring relevant documents such as payroll records and other employment records. New evidence should be shared with all parties prior to the hearing.

Q. Can I appeal an umpire's decision?

A. No. Umpire awards cannot be appealed.