



Employment
Standards
TRIBUNAL

RULES OF PRACTICE AND PROCEDURE

July 2, 2008

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Appendix: Forms

Form 1 – Appeal Form

Form 2 – Reconsideration Application Form

Part 1 INTRODUCTION

Purpose

The purpose of these rules is to assist in the fair and efficient resolution of appeals and applications for reconsideration filed with the tribunal.

The rules often refer to provisions of the *Employment Standards Act* (the “*Act*”), which is found on the tribunal's website at <http://www.bcest.bc.ca>.

Definitions

In these rules:

“**address for delivery**” means a current postal address or, if allowed by the tribunal, a fax number or e-mail address;

“**appeal**” means an appeal filed under section 112 of the *Act*, and includes an amended appeal;

“**appellant**” means a person who files an appeal with the tribunal, and includes a company or an organization;

“**applicant**” means a person who files an application for reconsideration with the tribunal, and includes a company or an organization;

“**business day**” means 8:30 am to 4:30 pm Monday through Friday, excluding holidays;

“**decision**” means an order or other decision made by the tribunal;

“**determination**” means any decision made by the director under section 30(2), 66, 68(3), 73, 76(3), 79, 100 or 119;

“**director**” means the Director of Employment Standards appointed under the *Public Service Act* and, in relation to a function, duty or power that the director has under section 117 of this *Act* delegated to another person, “director” includes that other person;

“**document**” means anything on which information is recorded or stored whether on paper or in electronic format;

“**file**” means effective delivery of a document to the tribunal;

“**in-person hearing**” means a hearing in which the parties or their representatives attend in person before a panel;

“**member**” means a person appointed to the tribunal under section 102 of the *Act*;

“**panel**” means one, three, or five members of the tribunal that have been authorized to determine appeals and applications for reconsideration made to the tribunal;

“**party**” means an appellant, an applicant, a respondent, the director and any other person or group allowed by the tribunal to participate in an appeal or application for reconsideration;

“reconsideration” means an application filed under section 116 of the *Act*;

“respondent” means a person, other than the appellant or applicant named as a party in a determination;

“submissions” mean any documents or information filed by a party with the tribunal for consideration in an appeal or application for reconsideration;

“telephone conference call hearing” means a hearing held by telephone conference that allows all persons to hear one another;

“tribunal” means the Employment Standards Tribunal established under Part 12 of the *Act*, and includes a member of the tribunal;

“written submission hearing” means a hearing based only on the written submissions filed by the parties.

Part 2 GENERAL

Rule 1 The Powers of the Tribunal

- (1) The tribunal may exercise any power under these rules and under Parts 12 and 13 of the *Act*.
- (2) At any time, the tribunal may issue instructions or practice directives with respect to an appeal or an application for reconsideration.
- (3) The tribunal may publish information sheets to assist the parties in using these rules.
- (4) The tribunal may waive or amend any of these rules.

Rule 2 How the Rules are Applied

Conflict with the *Act*

- (1) If any of these rules conflict with the *Act*, the *Act* will apply.

Applying the rules

- (2) These rules apply to all parties and all parties must comply with these rules, unless the tribunal decides otherwise.

Rule 3 Consequences of Not Following the Rules

Effect of not following the rules

- (1) If a party does not follow these rules or any decision regarding procedure, the tribunal may do one or more of the following:

- (a) schedule a written submission hearing, a telephone conference call hearing or an in-person hearing;
- (b) make a decision based on the information it has, with or without giving the parties an opportunity to make submissions;
- (c) adjourn or dismiss the appeal or the application for reconsideration.

If there are technical defects

- (2) The tribunal may waive a technical defect or irregularity in an appeal or in an application for reconsideration and consider the appeal or application for reconsideration as valid and that the rules have been followed.

Part 3 REPRESENTATION

Rule 4 Representation before the Tribunal

How a party may be represented before the tribunal

- (1) A party may be self-represented or be represented by a lawyer or an agent.

Withdrawal of lawyer or agent

- (2) A party must immediately notify the tribunal in writing if a lawyer or agent withdraws or ceases to represent the party.

Part 4 FILING AND DELIVERING DOCUMENTS

Rule 5 Address for Delivery

Address for delivery of notices and documents

- (1) Every party must provide written notice to the tribunal of their address for delivery.
- (2) If a lawyer or agent represents a party, the lawyer or agent must provide written notice to the tribunal of their address for delivery.

Change of address

- (3) A party and a party's lawyer or agent must immediately provide written notice to the tribunal of a change in their address for delivery.

Rule 6 Filing Documents with the Tribunal

How to file documents with the tribunal

- (1) A party may file documents with the tribunal by mail, fax, hand, courier, process server, or, in some cases, by e-mail. If requested, a party must provide the original document to the tribunal.

Filing by fax

- (a) A party may file up to 50 pages of documents with the tribunal by fax. If there are more than 50 pages, a party may file by fax only if the party first receives permission from the tribunal.
- (b) The tribunal's fax number is 604-775-3372.

Filing by e-mail

- (c) If a party wants to file documents by e-mail, the party must first receive permission from the tribunal.
- (d) The tribunal's e-mail address is registrar.est@bcest.bc.ca.

Multiple copies

- (e) If a party's documents are in excess of 50 pages, the tribunal may ask the party to provide multiple copies of the documents.

Requirements for documents

- (2) Documents filed with the tribunal must be readable.
- (3) Documents must be on standard letter-size paper (8½" x 11"). If the documents to be filed are not on standard, letter-sized paper a party must contact the tribunal in advance of filing to request permission to file the documents.

Documents in a language other than English

- (4) If a party files a document in a language other than English, the party must include a certified English translation.

Tribunal file number

- (5) The tribunal will assign a file number to every appeal and application for reconsideration. A party must include this file number on all documents filed with the tribunal after it has been assigned.

Time for filing

- (6) A party may file a document with the tribunal during a business day. If the tribunal receives a document outside of a business day, it will consider the document to be filed on the next business day.

If the day for filing falls on a day that is not a business day

- (7) If the deadline for filing a document with the tribunal falls on a day that is not a business day, the party may file the document on the next business day.

Delivery by the tribunal

- (8) The tribunal may deliver a document to a party or other person by mail, fax, hand, courier, process server, or e-mail.
- (9) If the tribunal delivers a document by mail, the document is considered to be delivered five days after it was mailed, unless that day is not a business day of the tribunal, in which case the document is considered to be delivered the next business day.
- (10) If the tribunal delivers a document by fax or e-mail, the document is considered to be delivered on the day after it was sent unless that day is not a business day of the tribunal, in which case the document is considered to be delivered the next business day.
- (11) The tribunal will receive, and may accept, evidence that a party or other person did not receive a document or that it was received after the deemed date of delivery.

Part 5 THE PARTIES

Rule 7 The Parties

- (1) The following persons are parties to an appeal or application for reconsideration:
 - (a) the appellant;
 - (b) the applicant;
 - (c) the respondent(s); and
 - (d) the director.
- (2) The tribunal may direct that any other person or group who may be affected by an appeal or application for reconsideration be added as a party, in which case the tribunal will specify the terms and conditions of their participation in the proceeding.

Part 6 MAKING AN APPEAL

Rule 8 Making an Appeal

How to appeal

- (1) To appeal a determination made by the director, an appellant *must do all* of the following:
 - (a) complete an Appeal Form (Form 1 – see Appendix at the end of these rules);
 - (b) deliver the completed Appeal Form to the tribunal;
 - (c) deliver a copy of the determination and the written reasons for the determination to the tribunal; and
 - (d) confirm that a copy of the Appeal Form has been delivered to the director.

Time limit for filing an appeal

- (2) An appellant must file an appeal within a time limit called the "appeal period" described in section 112(3) of the *Act*, which is:
 - (a) 30 days after the date of service of the determination if the appellant was served by registered mail; or
 - (b) 21 days after the date of service of the determination if the appellant was served in person or served under section 122(3) of the *Act*.

Rule 9 Request to extend appeal period

Requirements for requesting an extension

- (1) If an appellant files an appeal after the appeal period, the appellant must, at the same time as filing the appeal, submit a written request, pursuant to section 109(1)(b) of the *Act*, to extend the appeal period and provide reasons why the appeal was not filed on time.

Notice of the request to extend appeal period

- (2) The tribunal will notify the other parties of the request to extend the appeal period and set a time limit for responding to the request.

Decision

- (3) The tribunal will advise the parties in writing of its decision to either deny the request and dismiss the appeal or extend the appeal period and allow the appeal to proceed on its merits.

Rule 10 Amending an Appeal

- (1) If the director varies the determination after an appellant has filed an appeal, the appellant may amend the appeal.

Requirements for amending an appeal

- (2) To amend an appeal, the appellant must, within seven days of being notified of the variance:
 - (a) file the varied determination with the tribunal;
 - (b) file an amended appeal in writing to the tribunal; and
 - (c) confirm with the tribunal that a copy of the amended appeal has been delivered to the director.

Rule 11 Appeal Complete

Tribunal will assess the appeal

- (1) When the tribunal receives an appeal, it will review the appeal, decide whether it is complete, and decide whether it meets the requirements of the *Act* and these rules.

If an appeal does not meet requirements

- (2) If the appeal does not meet all the requirements, the tribunal may:
 - (a) notify the appellant that the appeal must be corrected before it will be accepted; and
 - (b) set out the time limits for the appellant to correct the appeal and comply with any other directions.
- (3) If the appellant's appeal is not corrected or is not filed within the time set out, the tribunal may dismiss the appeal without holding a hearing. If the tribunal dismisses the appeal, it will notify the parties and give written reasons for the decision.
- (4) If an appellant files the corrected appeal within the time set out, the tribunal will treat the appeal as though it had been filed on the day it was originally received.

Rule 12 Dismissing Appeals

- (1) The tribunal may dismiss all or part of an appeal without holding a hearing if it decides that any of the following apply:
 - (a) the appeal is outside the jurisdiction of the tribunal;
 - (b) the appeal was not filed within the appeal period;
 - (c) the appeal is frivolous, vexatious, or trivial or gives rise to an abuse of process;
 - (d) the appeal was made in bad faith or filed for an improper purpose or motive;
 - (e) the appellant failed to diligently pursue the appeal or failed to comply with an order of the tribunal;
 - (f) there is no reasonable prospect the appeal will succeed;
 - (g) the substance of the appeal has been appropriately dealt with in another proceeding.

Notifying parties when an appeal is dismissed

- (2) If all or part of an appeal is dismissed under this rule, the tribunal will notify the parties and give written reasons for the decision.

Rule 13 Notifying the Other Parties about the Appeal

- (1) Once the tribunal has assessed the appeal documents, and if the appeal is not dismissed under rule 11(3) or 12 or other action taken, the tribunal will send a letter to the director and the respondent(s) which:

- (a) acknowledges that the tribunal has received the appeal;
 - (b) requests the director to provide the tribunal with a copy of the record as required by section 112(5) of the *Act*;
 - (c) invites the director and the respondent(s) to respond to the appeal within a time limit; and
 - (d) provides a copy of the Appeal Form and any document filed with the appeal.
- (2) The tribunal will send the appellant a copy of the letter delivered to the director and the respondent(s).

Part 7 PROVIDING THE RECORD AND RESPONDING TO AN APPEAL

Rule 14 Providing the Record

Within the time allowed by the tribunal, the director must provide the tribunal with a copy of the record that was before the director at the time the determination, or variation of it, was made.

Rule 15 Responding to an Appeal

How to respond to an appeal

- (1) To respond to an appeal, the respondent(s) and the director must:
- (a) make a response in writing; and
 - (b) file the response with the tribunal within the allowed time.

Extending the time to respond to an appeal

- (2) If a respondent or the director provides the tribunal, in advance of the allowed time to respond, with a good reason for not being able to meet the deadline, the tribunal may extend the time limit.

Requirements for responding to an appeal

- (3) A response must contain:
- (a) the party's full name and address for delivery;
 - (b) the tribunal file number; and
 - (c) a detailed submission in response to the appeal.

Tribunal will assess the response

- (4) When the tribunal receives a response, it will review the response, decide whether it is complete, and decide whether it meets the requirements of the *Act* and these rules.

If a response does not meet requirements

- (5) If a response does not meet all the requirements, the tribunal may:
 - (a) notify the party that the response must be corrected before it will be accepted; and
 - (b) set out the time limit for the party to correct the response and follow any other directions.
- (6) If a party's response is not corrected or is not filed within the time set out the tribunal may proceed to consider the appeal without notifying the party.

Part 8 FINAL REPLY ON APPEAL

Rule 16 Final Reply on Appeal

- (1) The tribunal will provide a copy of all responses to all other parties and permit them to file a final reply within a time limit.
- (2) The tribunal will provide a copy of the record received from the director or make the record available for personal inspection to the other parties.
- (3) If the tribunal makes a copy of the record available for inspection, it will notify all parties of the location of the record and the time during which it may be inspected.
- (4) If a party does not file a final reply within the time limit that party may not later file a final reply without the prior permission of the tribunal. The tribunal will grant permission only in exceptional circumstances.

Part 9 THE APPEAL HEARING

Rule 17 Type of Appeal Hearing

- (1) Provided the procedures described in Parts 6 to 8 of these rules are completed and the appeal has not been dismissed under rule 11(3) or 12, the tribunal will choose a type of hearing for deciding the appeal. The tribunal may choose to have:
 - (a) a written submission hearing;
 - (b) a telephone conference call hearing;
 - (c) an in-person hearing; or
 - (d) any combination of the above.
- (2) Usually, the appeal hearing will proceed as a written submission hearing.

Rule 18 The Appeal Panel

Type of panel

- (1) An appeal will be heard by a panel consisting of one, three, or five members. Usually, the appeal will be heard by one member.

Power of a panel

- (2) The panel hearing the appeal will decide how the hearing is to be conducted and may receive and accept evidence and information that it considers necessary and appropriate, whether or not that evidence or information would be admissible in a court of law.

Rule 19 Written Submission Only Appeal Hearing

Notice of hearing

If all or part of an appeal will be decided based only on written submissions, the tribunal will notify the parties.

Rule 20 Telephone Conference Call and In-Person Appeal Hearings

Notice of hearing

- (1) If all or part of an appeal will be decided by way of a telephone conference call or in-person hearing, the tribunal will set the time, date, and place or contact information for the hearing and notify the parties.
- (2) If a party who has been notified of a hearing does not participate, the tribunal may proceed with the hearing and make a decision about the appeal in the absence of that party.

Interpreters

- (3) If a party or their lawyer or agent requires an interpreter in a language other than English, that person must notify the tribunal at least 14 days before the date set for the telephone conference call or in-person hearing.

Rule 21 Combining Appeals

The tribunal may, where it considers it appropriate, combine or hear together multiple appeals in a single proceeding.

Part 10 APPLYING FOR A RECONSIDERATION

Rule 22 Applying for a Reconsideration

- (1) The tribunal may reconsider any order or decision it makes. The tribunal may decide on its own to reconsider an order or decision, or it may do so on the request of a party.

How to apply for a reconsideration

- (2) To apply for a reconsideration of a decision or order of the tribunal, an applicant must:
 - (a) complete a Reconsideration Application Form (Form 2 – see Appendix at the end of these rules); and
 - (b) deliver the completed Reconsideration Application Form to the tribunal.
- (3) The applicant should deliver the application for reconsideration as soon as possible after the tribunal decision, but in any event within 30 days after the date of the tribunal decision.
- (4) If the applicant delivers the application for reconsideration more than 30 days after the date of the tribunal decision, the applicant must provide written reasons for the delay.

Tribunal will assess the application for reconsideration

- (5) When the tribunal receives an application for reconsideration, it will review the application, decide whether it is complete, and decide whether it meets the requirements of the *Act* and these rules.

If an application for reconsideration does not meet requirements

- (6) If the application for reconsideration does not meet all the requirements, the tribunal may:
 - (a) notify the applicant that the application must be corrected before it will be accepted; and
 - (b) set out the time limits for the applicant to correct the application and comply with any other directions.
- (7) If the application is not corrected or is not filed within the time set out, the tribunal may dismiss the application without holding a hearing. If the tribunal dismisses the application, it will notify the parties and give written reasons for the decision.
- (8) If an applicant files the corrected application within the time set out, the tribunal will treat the application as though it had been filed on the day it was originally received.

Rule 23 Notifying the Other Parties of an Application for Reconsideration

- (1) Once the tribunal has assessed the application for reconsideration, and if the application is not dismissed under rule 22(7), the tribunal will notify the other parties of the application and set a time limit for the other parties to respond.
- (2) The tribunal will provide the other parties with a copy of:

- (a) the Reconsideration Application Form; and
- (b) any document filed with the reconsideration application.

Part 11 RESPONDING TO A RECONSIDERATION

Rule 24 Responding to a Reconsideration

How to respond to a reconsideration

- (1) To respond to an application for reconsideration, a party must:
 - (a) make a response in writing; and
 - (b) file the written response with the tribunal within the allowed time.

Extending the time to respond to a reconsideration

- (2) If a party provides the tribunal, in advance of the allowed time to respond, with a good reason for not being able to meet the deadline, the tribunal may extend the time limit.

Requirements for responding to a reconsideration

- (3) A response must contain:
 - (a) the party's full name and address for delivery;
 - (b) the tribunal file number; and
 - (c) a detailed submission in response to the reconsideration application.

Tribunal will assess the reconsideration response

- (4) When the tribunal receives a response, it will review the response, decide whether it is complete, and decide whether it meets the requirements of the *Act* and these rules.

If a reconsideration response does not meet requirements

- (5) If a response does not meet all the requirements, the tribunal will:
 - (a) notify the party that the response must be corrected before it will be accepted; and
 - (b) set out the time limit for the party to correct the response and follow any other directions.
- (6) If the party's response is not corrected or is not filed within the allowed time, the tribunal may proceed to consider the application for reconsideration without notifying the party.

Part 12 FINAL REPLY ON A RECONSIDERATION

Rule 25 Final Reply on a Reconsideration

- (1) The tribunal will provide a copy of all responses to the other parties and permit them to file a final reply within a time limit.
- (2) If a party fails to file a final reply within the time allowed, that party may not later file a final reply without the tribunal's prior permission. The tribunal will grant permission only in exceptional circumstances.

Part 13 THE RECONSIDERATION HEARING

Rule 26 Type of Reconsideration Hearing

- (1) Provided the procedures described in Parts 10 to 12 of these rules are completed, and the application for reconsideration has not been dismissed under rule 22(7), the tribunal will choose a type of hearing for deciding the application for reconsideration. The tribunal may choose to have:
 - (a) a written submission hearing;
 - (b) a telephone conference call hearing;
 - (c) an in-person hearing; or
 - (d) any combination of the above.
- (2) Usually, the reconsideration hearing will proceed as a written submission hearing.

Rule 27 Reconsideration Panel

Type of reconsideration panel

- (1) A reconsideration application will be heard by a panel consisting of one, three, or five members. Usually, the application will be heard by one member.

Power of a reconsideration panel

- (2) The panel hearing the application will decide how the hearing is to be conducted and may receive and accept evidence and information that it considers necessary and appropriate, whether or not that evidence or information would be admissible in a court of law.

Rule 28 Written Submission Only Reconsideration Hearing

Notice of hearing

If all or part of the application will be decided based only on written submissions, the tribunal will notify the parties.

Rule 29 Telephone Conference Call and In-Person Reconsideration Hearing

Notice of hearing

- (1) If all or part of an application will be decided by way of a telephone conference call or in-person hearing, the tribunal will set the time, date, and place or contact information for the hearing and notify the parties.
- (2) If a party who has been notified of a hearing does not participate, the tribunal may proceed with the hearing and make a decision about the application in the absence of that party.

Interpreters

- (3) If a party or their lawyer or agent requires an interpreter in a language other than English, that person must notify the tribunal at least 14 days before the date set for the telephone conference call or in-person hearing.

Rule 30 Combining Reconsideration Applications

The tribunal may, where it considers it appropriate, combine or hear together multiple reconsideration applications in a single proceeding.

Part 14 SUSPENDING A DETERMINATION

Rule 31 Request to Suspend a Determination

Requirements for suspending a determination

- (1) At the request of an appellant or applicant, the tribunal may suspend a determination under section 113 of the *Act* for any period and subject to any conditions it considers appropriate.
- (2) An appellant or applicant requesting a suspension must deposit with the director the amount that the director requires to be paid, if any, or a lesser amount as may be ordered by the tribunal.
- (3) In order to request a suspension an appellant or applicant must, in writing, at the same time as filing the appeal or application for reconsideration:
 - (a) state the reasons for the request to suspend the determination;

- (b) state the amount to be deposited with the director; and
- (c) if that amount is less than the amount required to be paid by the director, state the reasons why depositing a lesser amount would be adequate in the circumstances.

Notice of suspension request

- (4) The tribunal will notify the other parties of the request to suspend the determination and set a time limit for responding to the request.

Suspension decision

- (5) If the request is not otherwise resolved, a panel will advise the parties in writing of its decision on the request.

Part 15 COMPELLING WITNESSES AND ORDERING DISCLOSURE

Rule 32 Compelling Witnesses and Ordering Disclosure

Tribunal may compel participation and order disclosure

- (1) At any time before or during a hearing, the tribunal may make an order requiring a person:
 - (a) to participate in a telephone conference call or in-person hearing to give evidence that is admissible and relevant to the appeal or reconsideration application;
 - (b) to produce for the tribunal, or a party, a document or other thing in the person's possession or control, as specified by the tribunal, that is admissible and relevant to an issue in the appeal or reconsideration application.

Applying to compel participation and order disclosure

- (2) A party to an appeal or reconsideration may apply to the tribunal in writing for an order requiring a person:
 - (a) to participate in a telephone conference call or in-person hearing to give evidence that is admissible and relevant to the appeal or reconsideration application;
 - (b) to produce for the tribunal, or a party, a document or other thing in the person's possession or control that is admissible and relevant in the appeal or reconsideration application.
- (3) An application to the tribunal to require a person to participate or to produce documents must include:
 - (a) the name and address of that person;
 - (b) an outline of the information or evidence that person will present;
 - (c) a list of the particular documents or other things that person must produce;
 - (d) the reasons why the person should participate or produce documents;

- (e) an outline of any efforts made to have the person voluntarily participate or produce documents.
- (4) The tribunal will advise the party in writing whether or not the application is granted.

Serving order and witness fees and expenses

- (5) The party who applies for an order for a person to attend or produce a document must:
 - (a) serve the order on the person named by leaving the order with that person or by leaving it at the person's usual residence at least 5 business days before the date the person is required to appear or produce a document; and
 - (b) pay any witness fees and expenses as directed by the tribunal.

Contempt proceedings

- (6) A person who fails or refuses to comply with an order made by the tribunal under this rule is, on application to the court by the tribunal, liable for contempt as if in breach of an order or judgment of the court.

Part 16 ADJOURNMENTS

Rule 33 Adjourning a Hearing

- (1) The tribunal may adjourn a hearing at any time.

Applying for an adjournment

- (2) A party may apply to the tribunal to adjourn a hearing. An application to adjourn must:
 - (a) be made in writing;
 - (b) include reasons why an adjournment is necessary; and
 - (c) state why granting the request will not unduly prejudice the other parties.

Time limit for filing an application for an adjournment

- (3) A party must file an adjournment application as soon as practicable and at least two business days before the date set for the hearing, unless the reasons to apply for an adjournment do not exist at that time.

Adjournment application filed after time limit

- (4) If a party applies for an adjournment within two business days before the date set for the hearing, the tribunal may decide to hear the adjournment application at the start of the hearing.

Part 17 SETTLEMENT

Rule 34 Settlement Meetings

- (1) At any time during an appeal or an application for reconsideration, the tribunal may decide on its own, or at the request of a party, to conduct a settlement meeting to resolve one or more issues in dispute.
- (2) The tribunal may appoint a member or other person to conduct a settlement meeting.
- (3) If that member conducts a settlement meeting and the appeal or application for reconsideration is not settled, the member will not decide the merits of the appeal or the application for reconsideration unless all parties consent.
- (4) Unless all parties consent, or the tribunal orders otherwise, a person must not disclose or be compelled to disclose to any other person any documents produced or statements made during a settlement meeting.

Part 18 DECISIONS AND ORDERS

Rule 35 Decisions and Orders

- (1) The tribunal may make a decision or order orally or in writing.
- (2) A decision or order of a panel, or a majority of a panel, is considered a decision or order of the tribunal.

Final decisions and orders

- (3) Once a panel has made a final decision about an appeal or application for reconsideration, the tribunal will advise the parties in writing of the decision and the reasons for it.
- (4) All written tribunal decisions will be published on the tribunal's web site and on Quicklaw.

Amending a final decision

- (5) A party may apply, or the tribunal may decide on its own, to amend a final decision to correct any of the following:
 - (a) a clerical or typographical error;
 - (b) an accidental or inadvertent error, omission, or other similar mistake; or
 - (c) an arithmetical error made in a computation.
- (6) Unless the tribunal decides otherwise, an amendment will not be made more than 30 days after all parties have been served with the final decision.

Part 19 JUDICIAL REVIEWS

Rule 36 Judicial Reviews of Tribunal Decisions and Orders

Judicial review available

- (1) A party who disputes a tribunal decision or order may seek judicial review by bringing a petition in the British Columbia Supreme Court under the *Judicial Review Procedure Act*.
- (2) A party must commence an application for judicial review within the time limit set out in section 57 of the *Administrative Tribunals Act*.

APPENDIX: Forms

Form 1 – Appeal Form

Form 2 – Reconsideration Application Form

This Appeal Form, along with required attachments, must be delivered to the Employment Standards Tribunal within the appeal period (by mail to Suite 650, 1066 West Hastings Street, Vancouver, BC V6E 3X1 or by fax to 604-775-3372)

1. Person making the appeal:

Name _____

Address _____

_____ Postal Code _____

Phone _____ Fax _____

E-mail _____

2. State your grounds for appeal. (See section 112(1) of the *Employment Standards Act*)
(Please provide your detailed explanation on a separate sheet of paper)

- The Director of Employment Standards erred in law.
- The Director of Employment Standards failed to observe the principles of natural justice in making the determination.
- Evidence has become available that was not available at the time the Determination was being made.

3. Do you require a suspension of the Determination in whole or in part and if so why? (See Rule 31 of the Tribunal's Rules of Practice and Procedure (the "Rules"))
(Please provide your explanation on a separate sheet of paper)

4. If you are filing your appeal after the appeal period has expired, please provide an explanation why you did not file it on time. (See Rule 9 of the Tribunal's Rules)
(Please provide your explanation on a separate sheet of paper)

5. What do you want the Tribunal to do about the determination?
(Please provide your explanation on a separate sheet of paper)

- Change or vary it? How?
- Cancel it?
- Refer it back to the Director of Employment Standards?

6. Check List.

- Attach a copy of the Determination.
- Attach the written reasons for the Determination.
- Attach any other documents or information that supports your appeal and your detailed submission on why your appeal should be allowed.

The Tribunal may require you to provide multiple copies of your appeal submission if it is longer than 50 pages. (See Rule 6(1)(e) of the Tribunal's Rules)

- I confirm I have delivered a copy of this appeal to the Director of Employment Standards [PO Box 9570 Stn Prov Govt, Victoria BC V8W 9K1 or by fax at 250-356-1886] in accordance with section 112(2)(b) of the *Employment Standards Act*.
- Sign and date this Appeal Form.
- Submit all your documents to the Tribunal within the appeal period.**
(by mail to Suite 650, 1066 West Hastings Street, Vancouver, BC V6E 3X1, or by email to registrar.est@bcest.bc.ca or by fax to 604-775-3372)

Print Name: _____

Signature: _____ Date: _____



1. Person applying for reconsideration:

Name _____
Address _____
Postal Code _____
Phone _____ Fax _____
E-mail _____

2. The tribunal decision you want reconsidered: BC EST # D _____ dated _____

3. State your reasons for applying for reconsideration:

- Please provide your detailed explanation on a separate sheet of paper
Attach any other documents or information that supports your application
The Tribunal may require you to provide multiple copies of your reconsideration application submission if it is longer than 50 pages. (See Rule 6(1)(e) of the Tribunal's Rules of Practice and Procedure (the "Rules"))

4. If you are filing an application for reconsideration more than 30 days after the date of the Tribunal's Decision, you must provide written reasons for the delay. (See Rule 22(3) and (4) of the Tribunal's Rules)

- Please provide your detailed reasons for the delay on a separate sheet of paper

5. Check List.

- Attach any documents or information that supports your application and your detailed submission on why your application should be allowed.
Sign and date this Reconsideration Application Form.
Submit all your documents to the Tribunal. (by mail to Suite 650, 1066 West Hastings Street, Vancouver, BC V6E 3X1, or by email to registrar.est@bcest.bc.ca or by fax to 604-775-3372)

Print Name: _____

Signature: _____ Date: _____