



RULES OF PRACTICE AND PROCEDURE

December 9, 2020

INDEX

PART 1	INTRODUCTION	1
PART 2	DEFINITIONS	1
PART 3	GENERAL RULES	1
Rule 1	Power of a Panel.....	1
Rule 2	Obligation to Comply and Effect of Non-Compliance.....	2
Rule 3	Representation before the Tribunal	2
Rule 4	Address for Delivery.....	2
Rule 5	Filing Documents with the Tribunal.....	2
Rule 6	Delivery of documents by the Tribunal.....	3
Rule 7	Interpreters at a teleconference call or in-person hearing	3
Rule 8	Settlement	3

PART 1 INTRODUCTION

These Rules of Practice and Procedure (the “Rules”) are made under s. 103 of the *Employment Standards Act* (“ESA”), s. 64 of the *Temporary Foreign Worker Protection Act* (“TFWPA”), and s. 11 of the *Administrative Tribunals Act* (“ATA”).

The Employment Standards Tribunal (the “Tribunal”) may exercise any power under these rules on its own initiative or at the request of a party.

The Tribunal may waive or vary these rules as it considers appropriate in the circumstances.

If any of these Rules conflict with the *ESA*, the *TFWPA* or the *ATA*, the *ESA*, *TFWPA*, or the *ATA* will apply.

PART 2 DEFINITIONS

In these rules:

“**appellant**” means a person or entity served with a Determination who files an appeal with the Tribunal;

“**applicant**” means a person or entity who files an application for reconsideration, or another application, with the Tribunal;

“**decision**” means an order, direction, or other decision made by the Tribunal;

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

“**file**” or “**filing**” means delivery of a document to the Tribunal in accordance with these Rules;

“**Member**” means a person appointed to the Tribunal under section 102 of the *ESA*;

“**Panel**” means any Member(s) who have been assigned to decide appeals and applications for reconsideration;

“**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;

“**respondent**” the person or entity replying to an appeal, application for reconsideration, or other application;

“**submissions**” mean documents or information filed by a party in an appeal, application for reconsideration, or other application.

PART 3 GENERAL RULES

Rule 1 Power of a Panel

The panel deciding the appeal or application for reconsideration 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 is admissible in a court of law.

Rule 2 Obligation to Comply and Effect of Non-Compliance

- (1) Parties must comply with these Rules and any decisions, orders, or directions regarding procedures given by the Tribunal.
- (2) If a party does not follow these Rules, a decision, order, or any direction regarding procedure, the Tribunal may take such action it considers appropriate, including:
 - (a) requiring that the party comply;
 - (b) making a decision based on the information that has been filed with the Tribunal;
 - (c) waiving the non-compliance;
 - (d) dismissing the appeal, the application for reconsideration, or other application.

Rule 3 Representation before the Tribunal

- (1) A party may act on their own behalf or may appoint someone to represent them.
- (2) If a party appoints a representative, that party must notify the Tribunal in writing of the name and contact information of the representative.
- (3) A party or the party's representative must immediately notify the Tribunal in writing if the representative ceases to represent the party.

Rule 4 Address for Delivery

- (1) A party must provide the Tribunal with an address for delivery. The address for delivery means a current postal address, a fax number, or an e-mail address.
- (2) A party or a party's representative must immediately provide written notice to the Tribunal of a change in their address for delivery.

Rule 5 Filing Documents with the Tribunal

The Tribunal's preferred method of filing documents is by e-mail. A party may also file documents with the Tribunal by mail, fax, hand, courier, or as directed by the Tribunal.

- (1) A party or any other person must include the following information when filing any document with the Tribunal:
 - (a) name of the person filing the document and, if applicable, their representative's name;
 - (b) Tribunal file number, if assigned.
- (2) It is a party's responsibility to confirm with the Tribunal that the Tribunal has received the party's filed documents by the filing deadline.
- (3) The Tribunal's business hours are 8:30 am to 4:30 pm, Monday to Friday, excluding statutory holidays. Documents received outside of these hours are filed as of the next business day.

Rule 6 Delivery of documents by the Tribunal

If the Tribunal delivers a document by ordinary mail, the document is considered to be delivered five days after it was mailed, unless that day is a holiday, in which case the document is considered to be received on the next day that is not a holiday.

If the Tribunal delivers a document by e-mail or fax it is considered to be received on the day after it was sent, unless that day is a holiday, in which case the document is considered to be received on the next day that is not a holiday.

Rule 7 Interpreters at a teleconference call or in-person hearing

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 8 Settlement

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.