

The information below relates to appeals of determinations issued by the Director of Employment Standards (the “**Director**”) under the Employment Standards Act (**ESA**) and/or the Temporary Foreign Worker Protection Act (**TFWPA**).

This document explains key terms, answers common questions, and outlines the main steps in the Tribunal’s usual appeal process. It does not replace the ESA, the TFWPA, the **Employment Standards Regulation**, the **Temporary Foreign Worker Protection Regulation**, the Tribunal’s Rules of Practice and Procedure (the “**Rules**”), or the Tribunal’s **Practice Directives**. If there is any conflict between this document and any of the latter, the applicable Act, Regulation, Rule, or Practice Directive will govern. The Rules and Practice Directives can be found on the Tribunal’s website: <https://www.bcest.bc.ca>.

This document is for information purposes only and is **not** binding on Tribunal Members and is **not** legal advice.

KEY TERMS

appeal means an appeal of a determination issued under the ESA and/or the TFWPA;

Appeal Submission means the package of materials that explains why the determination is being appealed and includes the appellant’s written reasons and arguments addressing each ground of appeal, and any supporting documents. **Practice Directive 2026-007** (Appeal Submission) [2026-07-01] sets out the requirements for the submission.

appellant means a person, including an individual, organization, business (whether incorporated or unincorporated), society, partnership, or other entity served with a determination who has appealed that determination to the Tribunal. This is the person who started the appeal. For example, if the business filed the appeal, they are referred to as the appellant.

applicant means a person, including an individual, organization, business (whether incorporated or unincorporated), society, partnership, or other entity that files an application for reconsideration or any other application to the Tribunal, other than an appeal. This is the person who started the application. For example, if the employee filed an application to redact certain information, they are referred to as the applicant.

determination means a decision of the Director under the ESA and/or the TFWPA that is appealable to the Tribunal.

Director means the Director of Employment Standards and/or their delegate, including the delegate who issued the determination that is being appealed.

Director’s Record means the documents and information that were before the Director of Employment Standards when the determination, or variation of it, was made. **Practice Directive 2026-008** (Director’s Record) [2026-07-01] sets out the requirements for the Director’s Record.

Panel means the Tribunal Member or Members assigned by the Tribunal’s chair to hear and decide a matter. The Panel reviews the materials on the file and makes the decision or order on the appeal, reconsideration application, or other application.

respondent means a person, including an individual, organization, business (whether incorporated or unincorporated), society, partnership, or other entity, responding to an appeal or application filed with the Tribunal, and includes the Director and the Director’s delegates. For example, this is the person who is responding to the appellant’s reasons and arguments for their appeal.

COMMON QUESTIONS

How long do I have to appeal? The appeal deadline is the **statutory appeal period** set out in the applicable legislation¹ and is usually indicated in the determination. It is calculated from the date the determination was served. If you are unsure about the service date or how the appeal period is calculated, review the determination and the legislation and consider getting legal advice.

Do my documents need to be in English? What if they are in another language? Yes. All information and documents filed with the Tribunal must be in English. If documents are in another language, you must file a translated document and you must include a signed statement from the translator. Requirements are set out in **Rules 15 and 16 of the Rules**.

Do I have to redact or sever personal information from submissions? Yes, personal information included in documents filed with the Tribunal must be appropriately redacted and/or severed. Requirements are set out in **Rule 32 of the Rules** and **Practice Directive 2026-004 (Redactions)** [2026-07-01].

What if my Appeal Submission is incomplete? The Tribunal may notify you about what must be corrected and set a time limit to correct it. It is important to correct any deficiencies and resubmit your documents by the deadline provided. If the corrected appeal materials are not delivered within the time allowed, the Tribunal may treat the appeal as not properly filed, may dismiss it under its statutory authority, or may close the file. This means your appeal may not proceed.

Can parties request additional time for submissions (after filing requirements are met)? Yes. A party may request additional time for submissions. Requests should be made as soon as possible and should explain the reasons for the request and, where practicable, indicate the other parties' position. The Tribunal decides whether to grant an extension based on the circumstances. Requirements are set out in **Practice Directive 2016-014 (Additional Time Requests (Non-Statutory))** [2026-07-01].

Will there be an oral or in person hearing? Appeals are decided based on the written materials, unless the Tribunal directs otherwise.

What happens after the decision is made on the appeal or application? The parties are provided a copy of the decision, and decisions are published. An application to reconsider a Tribunal order or decision may be made within a statutory reconsideration period. This means the Tribunal may review its own decision if certain legal conditions are met.

How long is the appeal process? There is no statutory timeline for the Tribunal to decide an appeal. The Tribunal's usual time period for completing an appeal is within twelve months from the date the Tribunal receives the appeal. The length of time required to complete an appeal depends on the circumstances of the case, including whether the appeal materials are complete, whether corrections are required, whether the Director's Record is complete, whether additional submissions are requested, the complexity of the issues, and any directions made by the Tribunal or the Panel. Because each case is unique, the Tribunal cannot guarantee that an appeal will be completed within a specific timeframe.

¹ See ESA s. 112(3) or TFWPA s. 68(3).

USUAL APPEAL PROCESS

The steps below describe the Tribunal's usual appeal process. They are provided for general information only. They are not statutory requirements, do not create procedural rights, and are not binding on the Tribunal or on a Panel. The Tribunal or the Panel may follow a different process where appropriate, including where required by the applicable legislation, the Tribunal's Rules or Practice Directives, or the circumstances of a particular appeal.

STEP 1: APPELLANT FILES THE APPEAL

The appeal process begins when the appellant delivers appeal materials to the Tribunal. The materials must be delivered within the statutory appeal period and must meet the applicable filing requirements. These requirements are set out in the legislation, the Rules, and the Tribunal's Practice Directives.

STEP 2: TRIBUNAL REVIEW OF THE APPEAL SUBMISSION

When the Tribunal receives appeal materials, including the Appeal Submission, it reviews the materials to confirm they were delivered within the statutory appeal period and that filing requirements are met.

The appeal period is set by legislation and is calculated from the date the determination was served on the person or entity who is filing the appeal.

Filing requirements are set out in the applicable legislation and Practice Directives (including **Practice Directive 2026-003** (Filing Requirements) [2026-07-01] and **Practice Directive 2026-006** (Administrative Requirements (Appeals)) [2026-07-01]) and include: a completed Appeal Form, a completed Contact Form, a clear explanation of the legal ground or grounds of appeal being relied on, a copy of the Determination and Reasons for the Determination, and any required proof of delivery or service, as applicable.

If the appeal materials do not meet all filing requirements, the Tribunal may, where appropriate:

- notify the appellant of what must be corrected before the appeal will be processed; and
- set out the time limits for the appellant to correct the appeal and comply with any other directions.

It is important that the appellant correct any issues and resubmit their documents by the deadline given.

If the appellant does not deliver the corrected appeal materials within the time allowed, the Tribunal may treat the appeal as not properly filed, may dismiss it under its statutory authority, or may close the file. This means the appeal may not proceed. Depending on the circumstances, the Tribunal may do so without requesting submissions from, or delivering materials to, the other parties.

STEP 3: TRIBUNAL ACKNOWLEDGES THE APPEAL

If the appeal materials meet the filing requirements for an appeal, including any corrections delivered within the time allowed, the Tribunal will send an acknowledgement letter to the appellant, the respondent(s), the Director, and any other person permitted by the Tribunal to participate in the appeal. An acknowledgement confirms that the appeal has been accepted for

processing; it is not a decision on the merits of the appeal and does not prevent the Tribunal or a Panel from making any order or decision authorized by the applicable legislation.

In the acknowledgement letter, the Tribunal may:

- confirm receipt of the appeal;
- include a copy of the Appeal Submission and any other documents filed with it;
- request further information from the appellant; and
- request that the Director of Employment Standards provide the Tribunal and the parties with the record that was before the Director when the determination was made (the “**Director’s Record**”).

STEP 4: DIRECTOR PROVIDES THE DIRECTOR’S RECORD

After the Tribunal acknowledges the appeal, the Director of Employment Standards must provide the Director’s Record to the Tribunal and the parties involved in the appeal. The Director’s Record includes all documents and information that were before the Director when the determination was made.

STEP 5: PARTIES REVIEW DIRECTOR’S RECORD FOR COMPLETENESS

After the Director provides the Director’s Record to the Tribunal and the parties, the Tribunal may set a deadline for the parties to advise whether anything is missing from the Director’s Record (for example, documents provided to the Director during the investigation that are not included in the copy of the Director’s Record delivered to the Tribunal and the parties).

This step is to ensure that the Tribunal has all the same documents and information that the Director had when making the determination. If a party says something is missing, the party should identify the specific item and, if possible, when and how it was provided to the Employment Standards Branch. This step **is not** an opportunity to file new evidence, unless otherwise directed by the Tribunal.

If a party identifies a potential omission, the Tribunal may, where appropriate, request the Director’s response and may provide the objecting party an opportunity to reply before the Tribunal decides whether the Director’s Record is complete.

Once the review of the Director’s Record is finished (including where no concerns are raised by the deadline), the Tribunal assigns the appeal to a Panel.

STEP 6: TRIBUNAL PANEL ASSIGNED

A Panel is usually assigned once the review of the Director’s Record is finished. Appeals are decided based on the written materials, unless the Tribunal directs otherwise.

STEP 7: PANEL INITIAL REVIEW

The Panel reviews the appeal file, including the Director’s Record and any other materials properly filed in the appeal. At this stage, the Panel may consider whether all or part of the appeal should proceed, whether further submissions are required, and whether any other direction or order is appropriate.

If the Panel dismisses all or part of the appeal at this stage, the Panel will issue written reasons for decision.

STEP 8: SUBMISSIONS ON THE MERITS

If the appeal is not dismissed, the Tribunal may seek submissions from the respondent(s) and the Director on the merits of the appeal and may set deadlines for those submissions. The appellant is typically given an opportunity to make a final reply.

STEP 9: PANEL DECIDES THE APPEAL AND DECISION ISSUED

Any final reply is provided to the parties. The Panel then reviews the submissions on the merits and decides the appeal. In its decision, the Panel may confirm, vary, or cancel the determination, or refer the matter back to the Director.

The parties are provided a copy of the decision. Tribunal decisions are listed on the Tribunal's website, published on CanLII, and may also appear in other legal publications.

AFTER THE APPEAL DECISION IS ISSUED**RECONSIDERATION**

A Tribunal order or decision may be reconsidered in accordance with the applicable legislation (including time limits).

For general information about reconsideration, see the Tribunal's Reconsideration Process Information document (available on the Tribunal's website).

JUDICIAL REVIEW

After the reconsideration process is completed (if pursued), judicial review at the BC Supreme Court may be available. The Tribunal is unable to provide information or legal advice on the processes of the BC Supreme Court.

Please visit the BC Supreme Court website at www.bccourts.ca/supreme_court/ for information on the judicial review process as well as contact information for the BC Supreme Court.