

EMPLOYMENT STANDARDS TRIBUNAL

PRACTICE DIRECTIVE 2026-009 APPEAL REPLY SUBMISSIONS

[2026-07-01]

PART 1 - GENERAL

1. PURPOSE

- 1.1. This Practice Directive sets out the Tribunal's usual process in appeal proceedings under the Employment Standards Act (**ESA**) and/or the Temporary Foreign Worker Protection Act (**TFWPA**) for:
- a respondent's filing of a submission in response to an appeal; and
 - where applicable, an appellant's filing of a reply submission.

PART 2 - WHEN A SUBMISSION MAY BE FILED

2. OPPORTUNITY AND DEADLINE TO FILE A SUBMISSION OR REPLY

- 2.1. Where the Tribunal gives a respondent an opportunity to file a respondent's submission, the Tribunal will set a deadline in its correspondence.
- 2.2. Where the Tribunal gives an appellant an opportunity to file an appellant's reply submission, the Tribunal will set a deadline in its correspondence.
- 2.3. Unless the Tribunal directs otherwise, a respondent's submission or appellant's reply submission must be received by the Tribunal on or before the deadline stated by the Tribunal.

PART 3 - SCOPE OF REPLY SUBMISSIONS

3. SCOPE OF RESPONDENT'S SUBMISSION

- 3.1. A respondent's submission is the respondent's opportunity to answer the appeal and any materials filed in support of it as filed.
- 3.2. A respondent's submission should address:
- the grounds of appeal,
 - the material issues raised by the appellant, and
 - any position the respondent takes on the outcome of the appeal.

- 3.3. A respondent's submission should not be used to raise an independent appeal or seek relief beyond the scope of responding to the appeal, unless the ESA, the TFWPA, the **Rules of Practice and Procedure**, or a Tribunal direction permits otherwise.
- 3.4. If a respondent wishes to rely on new evidence in their submission, they should explain:
- why the evidence is being provided at that stage;
 - whether it was previously available; and
 - why it is relevant to an issue properly before the Tribunal.
- 3.5. The Tribunal may refuse to accept or consider new evidence filed at that stage.

4. SCOPE OF THE APPELLANT'S REPLY SUBMISSION

- 4.1. The appellant's reply submission is a submission delivered by an appellant after receiving a respondent's submission or other submission that the Tribunal has directed may be answered by a reply from the appellant.
- 4.2. The appellant's reply submission should be limited to responding to new issues, arguments, or documents raised in the submission to which the appellant is replying. The submission should not include unnecessary repetition or irrelevant material.
- 4.3. If an appellant wishes to rely on new evidence in their submission, they should explain:
- why the evidence is being provided at that stage;
 - whether it was previously available; and
 - why it is relevant to an issue properly before the Tribunal.
- 4.4. The appellant's reply submission should not raise new grounds of appeal that were not included in the appeal as filed, unless the Tribunal expressly permits otherwise.

PART 4 - FILING REQUIREMENTS

5. HOW TO FILE THE RESPONDENT'S SUBMISSION OR APPELLANT'S REPLY SUBMISSION

- 5.1. The requirements for filing the respondent's submission or appellant's reply submission are set out in **Practice Directive 2026-002** (Use of Artificial Intelligence) [2026-07-01], **Practice Directive 2026-003** (Filing Requirements) [2026-07-01], and **Practice Directive 2026-004** (Redactions) [2026-07-01].

PART 5 - NON-COMPLIANCE AND EXTENSIONS

6. IF NO RESPONDENT'S SUBMISSION OR APPELLANT'S REPLY SUBMISSION IS RECEIVED

- 6.1. If a submission is not filed by the deadline, the Tribunal may proceed to decide the appeal on the record before it, without further notice.

7. TRIBUNAL TREATMENT OF LATE OR IMPROPER SUBMISSIONS

- 7.1. The Tribunal may refuse to accept, or may accept but give little or no weight to, a respondent's submission or an appellant's reply submission that is filed late, is not authorized by the Tribunal's process or directions, raises matters beyond the proper scope of the submission, repeats earlier submissions without addressing the issues said to require a response, or includes unnecessary or irrelevant material.

8. REQUESTS FOR ADDITIONAL TIME

- 8.1. A party seeking more time to file either submission should request an extension before the deadline expires, explain the length of the extension sought, and give reasons for the request. The Tribunal may grant or refuse an extension, with or without terms.

PART 6 - DISCLOSURE TO OTHER PARTIES

9. DOCUMENT DISCLOSURE

- 9.1. Unless the Tribunal directs otherwise, a respondent's submission or an appellant's reply submission received by the Tribunal will be disclosed to the other parties to the appeal.
- 9.2. The Tribunal may set terms respecting disclosure, redaction, or the use of documents where fairness, privacy, confidentiality, or security considerations arise.

PART 7 – EFFECTIVE DATE AND APPLICATION

10. EFFECTIVE DATE AND TRANSITIONAL APPLICATION

- 10.1. This Practice Directive applies to proceedings before the Tribunal on or after July 1, 2026, unless the Tribunal orders otherwise.