

EMPLOYMENT STANDARDS TRIBUNAL

PRACTICE DIRECTIVE 2026-013 STATUTORY TIME LIMIT EXTENSIONS

[2026-07-01]

PART 1 - GENERAL

1. PURPOSE

- 1.1. This Practice Directive sets out the requirements and expectations for requests to extend statutory time limits in proceedings under the Employment Standards Act (**ESA**) and/or the Temporary Foreign Worker Protection Act (**TFWPA**) for:
- filing an appeal; or
 - filing a reconsideration application.

PART 2 – STATUTORY PERIOD EXTENSION REQUIREMENTS

2. WHEN AN EXTENSION REQUEST IS REQUIRED

- 2.1. A party must request an extension of a statutory time limit if any statutory requirement to commence an appeal or reconsideration application was not completed within the applicable time period, including:
- filing the required submission (Appeal Form and Appeal Submission or Reconsideration Application Form and Reconsideration Submission);
 - delivering required materials to the Tribunal; or
 - delivering required materials to the Director of Employment Standards (for appeals).

3. TIMING OF AN EXTENSION REQUEST

- 3.1. A request to extend a statutory time limit must be made at the time the required materials are filed with the Tribunal.
- 3.2. If required materials are delivered after the expiry of the statutory time limit without an extension request, the Tribunal may:
- treat the matter as not properly filed; and
 - decline to proceed or dismiss the matter where authorized by the ESA and/or the TFWPA.

4. CONTENT OF AN EXTENSION REQUEST

- 4.1. A request to extend a statutory time limit must:
- clearly state that an extension is requested;
 - identify which statutory requirement(s) were not met;
 - specify the new deadline being requested; and
 - provide a written explanation of the reasons for the delay, including addressing the *Niemisto* factors set out in paragraph 7.1 below.
- 4.2. The burden is on the requesting party to demonstrate why an extension should be granted.

5. EFFECT OF FILING AN EXTENSION REQUEST

- 5.1. Acceptance of materials for filing does not mean that a statutory extension has been granted.
- 5.2. Until the Tribunal decides the extension request, the appeal or reconsideration application does not proceed on its merits.

6. DISTINCTION FROM ADDITIONAL TIME REQUESTS

- 6.1. A request to extend a statutory time limit is distinct from a request for additional time to take a step after a proceeding has been commenced.
- 6.2. An additional time request may be requested only after all statutory requirements to commence the proceeding have been met. See **Practice Directive 2026-014** (Additional Time Requests (Non-Statutory)) [2026-07-01] for requirements.

7. CONSIDERATION OF AN EXTENSION REQUEST

- 7.1. In deciding whether to extend a statutory time limit, the Tribunal considers the following non-exhaustive criteria established in *Niemisto*, BC EST #D099/96, 1996 CanLII 20800:
- there is a reasonable and credible explanation for the failure to request an appeal within the statutory time limit;
 - there has been a genuine, and on-going *bona fide* intention to appeal the Determination;
 - the respondent party, as well as the Director, has been made aware of this intention;
 - the respondent party will not be unduly prejudiced by the granting of an extension; and
 - there is a strong *prima facie* case in favour of the appellant.
- 7.2. The Tribunal may seek submissions from other parties on the request to extend a statutory time limit.

PART 3 –EFFECTIVE DATE AND APPLICATION

8. EFFECTIVE DATE AND TRANSITIONAL APPLICATION

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