

The information below relates to applications for reconsideration of Tribunal orders or decisions 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 reconsideration 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 Panel means the Tribunal Member(s) who reviewed and decided the appeal decision or order.

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 reconsideration of a Tribunal order or decision. For example, if the employer filed the application, they are referred to as the applicant.

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

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.

Reconsideration Submission is the package of written materials explaining why reconsideration of a Tribunal decision or order is requested. **Practice Directive 2026-011** (Reconsideration Submission) [2026-07-01] sets out the requirements for the submission.

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 applicant's reasons and arguments for in the application for reconsideration.

COMMON QUESTIONS

How long do I have to apply for reconsideration? The reconsideration deadline is the **statutory reconsideration period** defined in the applicable legislation¹ and is usually indicated in the decision cover letter. It is calculated from the date the decision was served. If you are unsure about the service date or how the reconsideration period is calculated, review the Tribunal's decision 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 Reconsideration Application 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 materials are not delivered within the time allowed, the Tribunal may treat the reconsideration application as not properly filed (or may dismiss it under its statutory authority) and may close the file. This means your reconsideration application 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? Reconsideration applications are decided based on the written materials, unless the Tribunal directs otherwise.

What happens after the decision is made on the reconsideration application? The parties are provided a copy of the decision, and decisions are published. A Tribunal order or decision may be judicially reviewed in accordance with the applicable legislation (including time limits).

How long is the reconsideration process? There is no statutory timeline for the Tribunal to decide a reconsideration application. The Tribunal's usual time period for completing a reconsideration application is within nine months from the date the Tribunal receives the application. The length of time required to complete an application depends on the circumstances of the case, including whether the reconsideration materials are complete, whether corrections are required, 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 a reconsideration application will be completed within a specific timeframe.

¹ See ESA s. 116(2.1) or TFWPA s. (72)(3).

USUAL RECONSIDERATION PROCESS

The steps below describe the Tribunal's usual reconsideration 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 reconsideration application.

STEP 1: APPLICANT FILES THE RECONSIDERATION APPLICATION

The reconsideration application process begins when the applicant delivers reconsideration application materials to the Tribunal. The materials must be delivered within the statutory reconsideration 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 RECONSIDERATION SUBMISSION

Reconsideration is not an appeal. The Tribunal does not rehear the case or reconsider the evidence simply because a party disagrees with the appeal decision or order. It is not an opportunity to re-argue the case or submit evidence that could have been provided earlier. The reconsideration power is discretionary and is exercised with restraint, having regard to the need for finality and efficient dispute resolution.

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

The reconsideration period is set by legislation and is calculated from the date the Tribunal's decision was served on the person or entity who is filing the reconsideration application.

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 2026-010** (Administrative Requirements (Recons)) [2026-07-01]) and include: a completed Reconsideration Application Form, a completed Contact Form, a clear explanation of why the application for reconsideration is being made (legal grounds), and any supporting documents relied on.

If the Reconsideration Submission does not meet all filing requirements, the Tribunal may, where appropriate:

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

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

If the applicant does not deliver the corrected reconsideration application materials within the time allowed, the Tribunal may treat the application as not properly filed, may dismiss it under its statutory authority, or may close the file. This means the reconsideration application might 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 RECONSIDERATION APPLICATION

If the reconsideration application materials meet the requirements for filing, including any corrections delivered within the time allowed, the Tribunal will send an acknowledgement letter to the applicant, the respondent(s), the Director, and any other person permitted by the Tribunal to participate in the reconsideration process. An acknowledgement confirms the reconsideration application has been accepted for processing; it is not a decision on the merits of the application 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 application for reconsideration;
- include a copy of the Reconsideration Submission and any other documents filed with it;
- request further information from the applicant; and
- advise that the reconsideration application has been assigned to a Panel of the Tribunal for a decision.

STEP 4: TRIBUNAL PANEL ASSIGNED

Once accepted for filing, a Panel is assigned to the matter. The Panel determines whether the application warrants reconsideration under the applicable legislation, as interpreted in the Tribunal's decisions. Reconsideration applications are decided based on the written materials, unless the Tribunal directs otherwise.

STEP 5: PANEL INITIAL REVIEW

At this stage, the Panel may consider whether all or part of the application does not warrant reconsideration, whether further submissions are required, and whether any other direction or order is appropriate. The Panel may dismiss the application without seeking further submissions.

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

STEP 6: SUBMISSION ON THE MERITS

If the Panel determines that the Tribunal's appeal decision or order warrants reconsideration, the Tribunal may seek submissions from the respondent(s) and, where applicable, the Director, on the merits of the application and may set deadlines for those submissions. The applicant is typically given an opportunity to make a final reply.

STEP 7: PANEL DECIDES THE RECONSIDERATION APPLICATION AND DECISION ISSUED

Any final reply is provided to the parties. The Panel then reviews the submissions on the merits and decides the application for reconsideration. In its decision the Panel may confirm, vary or cancel the order or decision or refer the matter back to the original panel or another panel.

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.

4. AFTER THE RECONSIDERATION APPLICATION DECISION IS ISSUED

A person served with the Tribunal's reconsideration decision, including the applicant, the respondent(s), and the Director, may file an application for judicial review of the decision in the BC Supreme Court.

Section 57(1) of the Administrative Tribunals Act states: Unless this Act or the tribunal's enabling Act provides otherwise, an application for judicial review of a final decision of the tribunal must be commenced within 60 days of the date the decision is issued.

The Tribunal is unable to provide information or legal advice on the processes of the BC Supreme Court. For information on the judicial review process as well as contact information for the BC Supreme Court, please visit the BC Supreme Court website at www.bccourts.ca/supreme_court/.