

Employment Standards

Rights and responsibilities at work

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Employment Standards Umpire Hearings

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Section 95 of the *Employment Standards Code (Code)* sets out the requirements for an appeal to be filed by an employer or employee with a judge of the Provincial Court of Alberta sitting as Employment Standards Umpire (Umpire). The Director of Employment Standards (Director) is a party to every appeal to an Umpire and every proceeding resulting from an Order of Officer (order) or resulting from an Umpire's award.

If a party does not agree with a decision of Employment Standards on a matter in which a right of appeal exists, that party may file an appeal with an Employment Standards Umpire.

The *Code* requires that notice of appeal must be received by the Employment Standards Registrar (Registrar) within **21 days** of the date of service or be postmarked by the Canada Post Corporation within **21 days** from the date of service.

The time limit for receiving appeals cannot be extended for any reason.

Filing an appeal

An appeal may be filed in the following instances:

- If an employer or an employee disagrees with an order.
- If an employer or employee disagrees with the Director's or reviewing officer's order to pay earnings following a review of decision of an officer.
- If an employer, employee, or a person is affected by a single employer declaration.
- If an employer or an employee disagrees with a Director's collection notice.
- If a minimum wage exemption permit applies to an employer or a prospective employee.
- If an employer disagrees with a Director's order to reinstate an employee, to pay compensation to an employee, or to pay earnings to an employee.
- If a director of a corporation disagrees with a certificate issued by the Director.

Requirements for a valid appeal

For the appeal to be valid, the notice of appeal must:

- be in writing,
- include the reason(s) for the appeal, and/or
- if it is the employer that is appealing the order, include the amount that the employer is required to pay under the order, including the order fee.

The Registrar may waive or reduce the fee if the Registrar considers that there are extenuating circumstances. Lack of funds is not considered an extenuating circumstance. The Registrar may accept security for the amount payable in another form and amount acceptable to the Registrar.

Address for a notice of appeal

A notice of appeal may be sent to the Registrar at the following locations.

Northern Alberta

Employment Standards Registrar
7th Floor, Labour Building, 10808 – 99 Avenue NW
Edmonton, AB T5K 0G5

Appeals may be faxed to 780-644-7173.

Southern Alberta

Office of the Registrar
7th Floor Guinness House, Elveden Centre
717 – 7 Avenue SW, Calgary, AB T2P 0Z3

Appeals may be faxed to 403-297-2385.

Parties to an appeal

The parties to the appeal are the employer, the employee and the Director. A representative from the Registrar's office attends on behalf of the Director.

Under the *Code*, the Director is a party to every appeal to an Umpire and every proceeding resulting from an Umpire's award.

Hearing and proof of evidence on appeal

The Registrar's office will contact the parties in writing. The Registrar will obtain a date for the hearing and send a notice to the parties detailing the date, time and location. The Registrar may also discuss alternate ways to resolve the dispute.

Hearings are held in the provincial courthouse in the jurisdiction of the workplace.

At the hearing, the Director's representative presents the Director's interpretation of legislation and explains how the legislation applies to the case.

Parties may bring representatives to present their case, and witnesses to give evidence if they believe it is in their best interests, but are not required to do so.

Since the Umpire is provided with a copy of the order, declaration, collection notice, certificate under appeal, the officer's worksheet and the notice of appeal only, it is up to the parties to present the information that supports their case. Parties can bring witnesses who can provide information and answer questions about the issue under appeal. They can also bring relevant documents such as payroll records and other employment records. All evidence should be shared with all parties prior to the hearing.

An Umpire is granted authority by the *Code* to hear appeals and make awards (decisions). Before the hearing, the Umpire reviews the order, declaration, collection notice, certificate under appeal, the officer's worksheet and the notice of appeal. The Umpire may:

- receive new evidence and may compel the attendance of witnesses,
- confirm, vary, revoke or substitute anything that is the subject of the appeal and issue a written decision,
- do anything that the Director or officer could have done under the *Code*,
- direct an employee or employer to attend an educational program in employment standards, and/or
- award costs subject to the regulations.

An Umpire's award must be in writing. It is final and cannot be appealed.

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This fact sheet contains general information, not legal advice. To interpret or apply the law, you must consult the *Employment Standards Code* and Employment Standards Regulation. This information is provided 'as is', without representation or warranty. The Government of Alberta will not be responsible for any loss or damage arising from your reliance on this information. This fact sheet is provided for your personal or educational use; it cannot be reproduced for commercial distribution.