

Employment Standards Appealing to an Umpire

May 2014

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 Umpire (Umpire). The Director of Employment Standards (Director), through representation, is a party to every appeal to an Umpire and every proceeding resulting from an appeal under Section 95 of the Code, or resulting from an Umpire's award.

If a party does not agree with an Employment Standards Order of Officer, Director's order for reinstatement or compensation, a permit for the employment of an employee who has a disability, a single employer declaration, a collection notice, or a certificate which are matters in which a right of appeal exists, that party may file an appeal to an Employment Standards Umpire.

The Code requires that a 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 to an Umpire

A person who has a right of appeal to an umpire may appeal by serving on the Registrar written notice of appeal specifying the reasons for it in the following instances:

- If an employer or an employee disagrees with the Order of Officer.
- If an employer or employee disagrees with the Director's or reviewing officer's Order of Officer 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 and disagrees with the 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 and the person who has a right of appeal disagrees.
- If an employer or employee 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 or former 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 written reasons for the appeal, and
- if it is the employer that is appealing the Order of Officer, or a Director's order for compensation, include the amount that the employer is required to pay under the order, being the Total Amount Payable which includes the amount Owing to Employee and the amount Owing to the Minister of Finance (the Order of Officer fee). The employer **must not** make statutory or other deductions from the Total Amount Payable.

Please refer to sections 95 to 108 of the Code.

Address for a notice of appeal

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

Northern Alberta

Office of the Registrar of Appeals
Employment Standards
7th Floor, Labour Building
10808 – 99 Avenue NW
Edmonton, Alberta T5K 0G5

Appeals may be faxed to 780-644-7173

Southern Alberta

Office of the Registrar of Appeals
Employment Standards
#150, 717 – 7 Avenue SW
Calgary, Alberta T2P 0Z3

Appeals may be faxed to 403-297-2385.

Parties to an appeal

The parties to the appeal are the employer or corporate director/former director, the employee (complainant), and the Director of Employment Standards. A representative of the Director of Employment Standards attends the appeal hearing 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. The Director's representative **does not** represent the employee/complainant or the employer/director/former director of a corporation at the hearing. Each party to the appeal is independent.

Both the employer or corporate director/former director and employee will receive a letter confirming that an appeal has been served on the Registrar. Each party is encouraged to contact the Registrar's office if they are interested in resolving the matter and working towards a settlement prior to the appeal hearing. The Registrar's office will relay information to the other party, but will not offer any opinion or advice, and does not advocate for either party.

Disclaimer & copyright notice

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.