

PARTICULARS

INTRODUCTION

Particulars are the details of what an application is about. [Information Bulletin #2](#) explains particulars as:

Particulars are the details, the "who, what, when, where and how," of the application. They are the facts and events the applicant relies on to justify the Board giving the relief the applicant seeks. The applicant's particulars should set out these facts and events in plain English. This should include: what did or did not happen, who was involved, and when and where these facts and events took place. The applicant must allege facts that, if true, establish the section of the legislation in question may apply or may have been violated.

Particulars are not the same as evidence. Particulars only set out what facts and events the applicant intends to prove. They do not have to say how the applicant intends to prove them. Nor do they have to disclose the identities of the applicant's witnesses. However, if the application alleges someone said something, the applicant must provide a description of what was said, who said it, and when and where it was said.

A good set of particulars tells the other parties what the thrust of the case against them is, and what they must do to prepare their own case. Poor particulars cause adjournments, hearing delays, additional expense or inconvenience, and can even cause the application to be dismissed.

When a party brings an application, complaint or reference, it must contain particulars. Parties must also give particulars when they respond to such matters (e.g., object to an officer's report). The Board requires these details:

- **To ensure fairness to all parties:** Investigating complaints requires time and effort by the respondents. Respondents should not have to make this effort if applicants do not provide sufficient details in the complaint to let the other parties know what the complaint is about. The Board will process a matter only where there is an allegation, which, if true, would lead to a finding of a violation of the [Labour Relations Code](#). Respondents are also entitled to know what the applicant alleges against them to prepare their defence.
- **To speed up the processing of cases before the Board:** Inadequate particulars delay cases and prolong hearings. Clear applications and replies narrow the issues in dispute, disclose areas of agreement (eliminating the need for evidence at the hearing) and promote greater pre-hearing discussion. This shortens hearings.
- **To avoid hearing adjournments:** The Board is usually reluctant to amend complaints, applications or references at hearing. When applicants raise new matters at hearing, the respondents need time to prepare their defence. This leads to lengthy and costly adjournments.

WHAT PARTICULARS ARE REQUIRED?

The applicant's initial correspondence should clearly set out a statement of fact that, if accepted as true, would establish that the Code applies, or was violated. The applicant does not have to prove the allegations in the written complaint but they must lay out the facts. The reader should know from the complaint when and how it occurred as well as who committed the alleged contravention. This requirement prevents "fishing expeditions."

The facts should justify the remedy requested. Particulars do not need to disclose the exact details of the evidence or the identity of the witnesses or documents to be called. The Board requires particulars for **each** section of the Code violated. Section 158(e) makes it an offence for anyone to make a complaint to the Board that is untrue.

It is not enough to recite the words of the statute. The application must allege facts that come within the scope of the statute's phrases. They must give the Board a clear understanding of how the sections of the Code could apply to those facts cited on the complaint or application. See: [[Rules of Procedure; Information Bulletin #2](#)]. The facts should justify the remedy requested.

NOTICES TO ATTEND OR PRODUCE

Applicants may ask the Board to have other parties produce documents relevant to the case. A party making an application for a [Notice to Attend and Produce](#) must particularize the documents they require. They must show the documents' relevance to the issues before the Board. The Board does not require absolute specificity as long as the documents are identifiable. The Board will approve notices requiring the production of apparently relevant classes of documents. Applicants do not have to describe each document if they are unsure of what form the documents take. This allows a measure of discovery. See: [[Notice to Attend/Produce, Chapter 32](#)].

Notices to Attend or Produce are to allow parties to establish the complaint, application or reference they have already filed. They are not available to allow parties to discover whether some other complaint exists.

INSUFFICIENT PARTICULARS

If the Director of Settlement believes an application lacks particulars, the Director asks the applicant to provide further particulars by a specific deadline. See: [[Rule of Procedure 22](#)]. The Board may refuse to process a matter further until it receives sufficient additional information.

The requirement for particulars is not an invitation to respondents to file preliminary objections about the adequacy of applications, complaints or references. The adequacy of particulars should be a matter decided administratively by the Director of Settlement. If the applicant disagrees with the request for additional particulars, the applicant can appeal the ruling to the Board under [Rule 22\(2\)](#).

The Director of Settlement might ask an applicant to provide additional particulars at the request of a respondent. If a respondent feels their request was not properly addressed by the applicant, the parties should discuss the matter and try to resolve their differences. If they are unable to do so, the Board will make a ruling on the matter.

If the additional particulars requested by the Director of Settlement are still insufficient, the matter is referred to the Board. The parties are given the option of presenting their argument in support of the particulars as they relate to the application, complaint or reference. The Board will then make a determination on whether the information provided is sufficient. Normally this is handled by a Chair or Vice-Chair during a conference call between the parties. If the Board agrees with the Director of Settlement's assessment, they will dismiss the application. The Board might also give specific directions about the necessary particulars to the parties concerned.