



OCCUPATIONAL HEALTH AND SAFETY RULES OF PROCEDURE

PART I: GENERAL

Definitions

1. In these Rules of Procedure,

- (a) “*Act*” means the *Occupational Health and Safety Act*, SA 2020, c O-2.2,
- (b) “Appeal Body” means the Alberta Labour Relations Board,
- (c) “Appeal Panel” means those assigned by the Chair to hear an Appeal,
- (d) “Appellant” means the person or entity filing an appeal with the Appeal Body,
- (e) “Board” means the Alberta Labour Relations Board,
- (f) “Chair” means the Chair of the Alberta Labour Relations Board,
- (g) “Decision under Appeal” means the document containing the order, notice of administrative penalty, cancellation, suspension, record, report, or variance being appealed,
- (h) “Director of Settlement” means the Director of Settlement of the Board, as appointed by the Chair, and any person designated by the Chair to act in the Director’s absence,
- (i) “Manager of Settlement” means a person appointed to that position by the Chair,
- (j) “OHS” means Alberta Occupational Health and Safety,
- (k) “OHS Rules” means the Appeal Body’s Rules of Procedure for appeals under the *Act*,
- (l) “Minister” means the member of the Executive Council of Alberta responsible for the *Act*,
- (m) “Party” means an appellant, a respondent, an intervenor, or any person declared by the Appeal Body to be an affected party,
- (n) “Record” means OHS’s record of a Decision under Appeal,
- (o) “Respondent” means the person or entity responding to an appeal with the Appeal Body. OHS is the Respondent for the following appeals under the *Act*:
 - i. compliance orders, stop work orders or stop use orders,
 - ii. notices of administrative penalty,
 - iii. a Director’s variance of orders under sections 38, 39 or 40,
 - iv. cancellations or suspensions of licences,
 - v. orders received under section 19(8).
- (p) “Vice-Chair” means a Vice Chair of the Alberta Labour Relations Board.

Authority

2. The Alberta Labour Relations Board is the designated Appeal Body of the *Act*.
3. The *Act* allows the Appeal Body to establish rules for the appeals it hears under the *Act*.

Application

4. The OHS Rules apply to the Appeal Body's exercise of its jurisdiction under the *Act*.
5. If the OHS Rules conflict with the *Act*, the *Act* prevails.
6. If the strict application of the OHS Rules would lead to unfairness or injustice, the Appeal Body may deviate from them.
7. Unless they are statutorily mandated, the Appeal Body may shorten timelines from the OHS Rules to expedite appeals if, in the opinion of the Appeal Body, it is necessary to do so from a public interest standpoint. If the Appeal Body decides an appeal should be expedited, it will notify the parties.

PART II: FILING AND FORMATTING DOCUMENTS

8. Parties to an appeal must file their documents with the Appeal Body either:
 - (a) by email to ALRB.OHSAPPEALS@gov.ab.ca, or
 - (b) by delivery to the Board's Edmonton or Calgary office.
9. Documents must be directed to the attention of the Director of Settlement or the Manager of Settlement.

Timelines for filing

10. Documents can be filed from 8:15am to 4:00pm, Monday to Friday, excluding statutory holidays.
11. If documents are delivered to the Appeal Body at a Board office, a Board representative will stamp the time and date of delivery, and the presumption will be the documents were received then. This confirmation of receipt is not confirmation the documents are acceptable for filing.
12. Documents received by email after 4:00pm, or at any time the Board is not open, will be deemed to have been received at 8:15am the next business day unless arrangements are made with the Appeal Body in advance.

Electronic Documents

13. Documents or other records sent to the Appeal Body by email must be sent as attachments.
14. The Appeal Body will not accept attachments that are:
 - (a) password protected,
 - (b) zip files,
 - (c) provided through links to file sharing services,
 - (d) inaccessible, or
 - (e) that otherwise fail to comply with the Board's direction.
15. Documents must be provided in portable document format (PDF), not exceeding a total file size of 100 megabytes.
16. PDFs must be:
 - (a) legible,
 - (b) searchable, and
 - (c) paginated.
17. Hyperlinks to legal authorities may be used if they lead to open-source databases such as CanLII. If an authority is not available through an open-source database, it must be provided in PDF.

Formatting Requirements

18. All written submissions should use at least one-inch margins, 12-point text, and 1.5 line spacing, excluding quotations from authorities or enactments, which should be single-spaced and, if more than four lines, indented by at least a one-inch margin.
19. All documents, including PDFs, should have a table of contents that clearly identifies each document and its corresponding page number.
20. PDFs should have electronic bookmarks for documents listed in the table of contents.

PART III: OHS APPEALS

21. An Appellant must file an appeal using the Appeal Body's Notice of Appeal form.
22. If the form is filed with the Appeal Body by email, the subject line should be: OHS Appeal – Notice to Appeal.

Particulars

23. A Notice of Appeal must include the following information:

- (a) what the appeal is about and what section or sections of the *Act* apply,
- (b) a copy of the Decision under Appeal,
- (c) when the Appellant was served with or received notice of the Decision under Appeal,
- (d) the grounds of appeal,
- (e) the relief sought,
- (f) any request for anonymization,
- (g) any request to introduce new evidence,
- (h) any request for accommodations.

Filing and Formatting

24. The Appellant must follow requirements from the OHS Rules, Part II.

Service

25. The Appeal Body will serve copies of the Notice of Appeal to all respondents, the Minister, and any other affected parties.

Time limits

26. The Appeal Body must receive the Notice of Appeal within 30 days of the date the Appellant was served with, or received notice of, the Decision under Appeal.

27. If it appears an appeal is filed outside of the 30-day time limit under the *Act*, the timeliness of the appeal may be raised by:

- (a) the Director of Settlement by providing a letter to all parties, or
- (b) any Respondent in a Respondent Statement or through an application for summary dismissal (see Part VIII of the OHS Rules).

PART IV: THE RECORD

28. OHS must file the Record with the Appeal Body when it receives the Notice of Appeal.

29. The Record must include:

- (a) documents commencing the Decision under Appeal,

- (b) the written record of the Decision,
- (c) written reasons for the Decision,
- (d) all evidence and records OHS had when it made the Decision under Appeal, and
- (e) anything else in OHS' possession which is arguably relevant and material to the Decision under Appeal and the grounds of review.

Filing and Formatting

30. OHS must follow the requirements from the OHS Rules, Part II.

Service

31. OHS must serve copies of the Record and any other materials it submits to the Appeal Body on all other parties to the appeal including the Minister, unless the parties have been notified that the Minister does not intend to participate in the appeal.

Time Limits

32. OHS must file the Record with the Appeal Body within 15 business days of receiving the Notice of Appeal unless any party applies to limit or expand the contents of the Record beforehand, in which case it must file within 15 business days of the Appeal Body's decision on the request.
33. Requests to extend timelines must be made to the Director of Settlement by email to ALRB.OHSAPPEALS@gov.ab.ca, as soon as possible, and with detailed reasons for the request.

PART V: RESPONDENT STATEMENTS

34. The Respondent must file a response using the Appeal Body's [Respondent Statement](#) form.

Particulars

35. The Respondent Statement must include the following details:
- (a) a response to the grounds of appeal in the Notice of Appeal,
 - (b) any request for anonymization,
 - (c) any concerns about the timeliness of the appeal,
 - (d) any request to introduce new evidence,
 - (e) any request for accommodations.

Filing and Formatting

36. The Respondent must follow the requirements from the OHS Rules, Part II.

Service

37. The Respondent must serve copies of the Respondent Statement on all other parties to the appeal, including the Minister, unless the parties have been notified that the Minister does not intend to participate in the appeal.

Time limits

38. The Respondent must file the Respondent Statement within 10 business days from the date the Record is filed, unless OHS is the Respondent.
39. If OHS is the Respondent, it must provide its Respondent Statement at the same time it files the Record—within 15 business days from the date it receives the Notice of Appeal.

PART VI: THE DIRECTOR'S POWERS

Powers of Director

40. The Director of Settlement may do one or more of the following things in relation to appeals under the *Act* and any corresponding applications:
- (a) determine whether the Notice of Appeal, Respondent Statement or procedural applications comply with the OHS Rules,
 - (b) direct any party to comply with the OHS Rules,
 - (c) refuse to accept documents that are incomplete, or that do not comply with the OHS Rules, or other directions from the Appeal Body,
 - (d) ask any party to resubmit or refile documents to comply with the OHS Rules,
 - (e) determine whether the Notice of Appeal or Respondent Statement are sufficiently particularized to inform the Appeal Body and affected parties of the substance of the appeal or response,
 - (f) direct any party to provide further and better particulars,
 - (g) provide notice to any person the Director of Settlement considers to be affected by the appeal and serve them with a copy of the Notice of Appeal,
 - (h) prescribe time limits to comply with any direction under the OHS Rules,
 - (i) if it appears that a Notice of Appeal may be untimely, provide notice to the parties and invite them to make submissions on whether to proceed with the appeal,
 - (j) vary timelines for filing the Record,
 - (k) refer any issue on the appeal file to the Chair for direction,

- (l) schedule matters relating to the appeal,
 - (m) adjourn hearings in cases where all affected parties agree to the adjournment,
 - (n) decide how many submissions the parties can make, and vary timelines for making submissions including responses and replies,
 - (o) if a party files an application for reconsideration of the Appeal Body's decision, invite the affected parties to respond,
 - (p) do anything or make any direction necessary to process an appeal, application or reconsideration, to properly define the issues in dispute, or to expedite a hearing before the Appeal Body.
41. If someone objects to the Director of Settlement's decision or direction, the matter will be brought to the Chair, and the Chair or a Vice-Chair sitting alone may confirm, reverse or vary it.

Extensions

42. Requests to extend timelines must be made to the Director in writing, as soon as possible, and with detailed reasons for the request.
43. Extension requests must be sent by email to ALRB.OHSAPPEALS@gov.ab.ca.

Delegation of Powers

44. The powers of the Director of Settlement may be delegated to and exercised by the Board's Manager of Settlement.

Assignment of a Board Officer

45. Once a Notice to Appeal is accepted, the Director of Settlement may assign the matter to a Board Officer for file management.

Reference to Chair or Vice-Chair

46. If the Director of Settlement refers a matter to the Chair under Rule 41, the Chair or a Vice-Chair sitting alone may:
- (a) make any decision or direction the Director of Settlement can make under Rule 40, or
 - (b) refer the matter to an Appeal Panel for disposition or hearing.

PART VII: THE APPEAL BODY

The Appeal Panel

47. When a Notice of Appeal is filed, the Chair will assign it to an Appeal Panel.
48. The Appeal Panel may be three members of the Appeal Body or may be a Chair or Vice-Chair sitting alone.
49. The Appeal Panel will determine its own procedure.

PART VIII: PRELIMINARY MATTERS

Procedural Applications

50. The Appeal Panel may consider procedural applications before the hearing.
51. Parties may ask the Appeal Body to do any thing that the Director of Settlement is empowered to do under OHS Rule 40.
52. Parties may also request for the Appeal Body to:
 - (a) anonymize a decision,
 - (b) admit new evidence,
 - (c) compel the attendance of witnesses or the production of documents to provide new evidence,
 - (d) expedite an appeal,
 - (e) limit or expand the record,
 - (f) consolidate an appeal with any other proceeding before the Appeal Body,
 - (g) stay an OHS order, cancellation, suspension, record or report appealed from, pending the appeal to the Appeal Body,
 - (h) adjourn or postpone the hearing, or
 - (i) summarily dismiss the appeal.
53. Procedural applications shall be no longer than 10 pages, unless prior permission has been given by the Appeal Body. Page limits do not include copies of authorities or evidence.
54. Procedural applications should be filed with the Notice to Appeal or Respondent Statement when possible but must, in any event, be made within 10 business days of the filing of the Record.

Right of Reply

55. Parties to the appeal may file a written reply to procedural applications within 10 business days of the application.
56. Replies shall be no longer than 10 pages, unless prior permission has been given by the Appeal Body. Page limits do not include copies of authorities or evidence.

Filing and Formatting

57. The parties must follow the requirements from the OHS Rules, Part II.

Service

58. Parties must serve copies of any application, response or other material submitted to the Appeal Body on all other parties to the appeal, including the Minister, unless the parties have been notified that the Minister does not intend to participate in the appeal.

New Evidence Applications

59. New evidence will only be allowed in exceptional circumstances and where the evidence,
 - (a) is directly relevant to the issues under appeal,
 - (b) makes a material difference to the outcome of the case, and
 - (c) was unavailable when the matter under appeal was decided.
60. A new evidence application must include particulars, establishing the grounds set out in Rule 59.
61. The applicant must include a copy of any document or record to be introduced as new evidence.
62. If the new evidence is testimonial, the applicant must include a will-say document.
63. Will-say documents must be five pages or less and,
 - (a) identify the particulars of a witness' testimony, and
 - (b) be signed and dated by the person who will provide the evidence.

Notices to Attend/Notices to Attend and Produce in New Evidence Applications

64. If the Appeal Body has determined there will be an oral hearing with witnesses, any party seeking to compel a witness or the production of documents to provide new evidence must

file an application for a Notice to Attend or a Notice to Attend and Produce with the Director of Settlement using the Appeal Body's [Application Form](#).

65. The application must state why the notice is required and provide enough detail about any requested documents to allow the person directed to produce the documents to identify them.
66. A Notice to Attend or a Notice to Attend and Produce must be served on the witness in a way referred to in Rule 28 of the Labour Relation Board's [Rules of Procedure](#) unless the parties have previously communicated by email, in which case email service is allowed.
67. Email service is deemed to have taken place when the email is sent, unless the addressee can prove they did not receive it.
68. The party requesting a Notice to Attend/Notice to Attend and Produce must provide the witness,
 - (a) \$25.00 for each day, or any portion of a day, they are needed for the hearing,
 - (b) transportation for hearing; or an allowance for air, bus or train fare by the most direct route; or \$0.57 per kilometre of travel if they use their own vehicle, and
 - (c) overnight accommodation or an allowance of \$225.00 per night if necessary, and
 - (d) \$13.00 for breakfast, \$18.00 for lunch, and \$28.00 for supper,in advance of the hearing.

PART IX: PRE-HEARING PROCESSES

69. Once an Appeal Panel is assigned to an appeal and the Notice of Appeal, the Record, the Respondent Statement(s), and any subsequent applications or submissions are filed, the Appeal Panel will determine whether it is appropriate to:
 - (a) schedule a case management meeting,
 - (b) use a preliminary review process, or
 - (c) proceed to the hearing of the appeal.
70. The Appeal Body will notify the parties if the Appeal Panel chooses to engage in any pre-hearing processes or if it directs any further steps to complete the pre-hearing process.

Case management meetings

71. Case management meetings will happen remotely unless the Appeal Panel directs otherwise.

72. The Board's [Guidelines for Remote Proceedings](#) apply.

Summary disposition of appeals

73. As part of its pre-hearing processes, an Appeal Panel may consider whether to summarily dismiss an appeal where:

- (a) the Director of Settlement has raised the issue,
- (b) a party to the appeal has made an application, or
- (c) it otherwise determines there is a basis to do so.

74. The Appeal Body may summarily dismiss an appeal where an appellant fails to participate in the appeal or fails to maintain contact with the Appeal Body.

75. If an appeal or proceeding has been disposed of by the Appeal Body or settled by the parties, and the appellant makes the same or substantially the same appeal again, the Appeal Body may refuse to accept the appeal or proceeding, or dismiss it summarily.

PART X: HEARINGS

76. Once any preliminary matters are decided, the Director of Settlement will schedule a hearing.

Written Submissions

77. Appeal hearings will proceed by written submissions, unless the Appeal Body directs otherwise.

78. Written submissions shall include:

- (a) the Appellant's written argument, and
- (b) the Respondent's written argument.

Right of Reply

79. The Appellant may file a written reply to the Respondent's argument.

Timelines

80. The Appellant's written argument shall be filed with the Appeal Body no later than 20 business days before the scheduled hearing.

81. The Respondent's written argument shall be filed with the Appeal Body no later than 10 business days before the scheduled hearing.

82. The Appellant's reply shall be filed with the Appeal Body no later than 5 business days before the scheduled hearing.
83. The Board may amend timelines in appropriate cases.

Page limits for written submissions

84. The Appellant and Respondent's written submissions shall be no longer than 25 pages.
85. The Appellant's reply to the Respondent's submissions shall be no longer than 10 pages.
86. Page limits do not include copies of authorities or evidence.

Service of written submissions

87. The parties must serve copies of their written submissions on all other parties to the appeal including the Minister, unless the parties have been notified that the Minister does not intend to participate in the appeal.

Filing and formatting

88. Parties must follow the requirements from the OHS Rules, Part II.

PART XI: RECONSIDERATION

89. The Appeal Body may reconsider any order or decision it has made and vary, revoke or affirm the order on its own initiative.
90. If the Board initiates the reconsideration, it will determine its process.
91. Parties may apply to the Appeal Body for reconsideration of an order or decision using the Appeal Body's Reconsideration form.

Particulars

92. The Reconsideration application must include the following details:
 - (a) a copy of the Appeal Body's decision,
 - (b) the grounds for reconsideration, in accordance with OHS Rule 93,
 - (c) the relief sought,
 - (d) any request for anonymization,
 - (e) any request to introduce new evidence,
 - (f) any request for accommodations.

93. In setting out the grounds for reconsideration, the applicant must identify which of the following grounds apply, and must provide concise reasons for why:
- (a) the Appeal Panel failed to assess the reasonableness of the Officer's record,
 - (b) the Appeal Panel failed to assess whether OHS' process was fair,
 - (c) the Appeal Panel made a mistake selecting or applying the standard of review,
 - (d) the Appeal Panel's process was unfair, or
 - (e) there is new evidence the Appeal Panel should take into consideration.

Time limits

94. Reconsideration applications should be filed with the Appeal Body within 30 days of the Appeal Body's decision.

Service

95. The applicant and respondents are responsible for serving copies of the application, responses, and any other related material submitted to the Appeal Body on all other parties to the appeal, including the Minister, unless the Minister did not participate in the appeal.

Processing applications

96. The Director of Settlement will review the application for completeness and timeliness and may require further particulars.

Right to Respond

97. If the reconsideration application is accepted, the respondents have a right to file a written response within 15 business days.

Right of reply

98. The applicant may file a written reply within 10 business days of the respondent's response.

Page limits for written submissions

99. Reconsideration applications shall be no longer than 5 pages, excluding the form.
100. Responses shall be no longer than 5 pages.
101. Replies shall be no longer than 3 pages.
102. Page limits do not include copies of authorities or evidence.

Filing and formatting

103. Parties must follow the requirements from the OHS Rules, Part II.

Appeal Panel

104. After the application, response and reply are submitted, the Chair will assign the application to an Appeal Panel for administrative review to determine whether to refer the application to a full hearing.

105. If the Appeal Panel determines the application for reconsideration does not warrant a full hearing, it may summarily dismiss the application.

106. If there is a clear error, the Appeal Panel may grant the reconsideration application and order a remedy without referring the application to a hearing.

107. If the reconsideration application is referred to a hearing, Part X of the OHS Rules apply.

Summary Disposition

108. An Appeal Panel may consider whether to summarily dismiss an application for reconsideration where,

- (a) the Director of Settlement has raised the issue,
- (b) a party to the appeal has made an application,
- (c) it otherwise determines there is a basis to do so.

109. The Appeal Body may summarily dismiss a reconsideration where an applicant fails to participate in the application or fails to maintain contact with the Appeal Body.

110. If an application for reconsideration or other similar proceeding has been disposed of by the Appeal Body, or settled by the parties, and the applicant makes the same or substantially the same application for reconsideration again, the Appeal Body may dismiss it summarily.

PART XII: WITHDRAWAL AND ABANDONMENT

111. An Appellant or applicant may withdraw an appeal or a reconsideration application any time before the Appeal Body's decision is issued.

112. If a Respondent or other party fails to respond to the Appeal Body within a reasonable time or otherwise participate in an appeal or reconsideration application, the appeal may proceed and be decided without further notice to the Respondent or the other party.

113. If all parties agree to adjourn an appeal or reconsideration application indefinitely (an adjournment sine die), and no one asks the Appeal Body to reschedule the matter six months after of the initial adjournment request, the Appeal Body may deem the appeal to have been withdrawn and close its file.