

ONTARIO LABOUR RELATIONS BOARD INFORMATION BULLETIN NO. 19

Requests for Reconsideration

The Board has the power to reconsider any decision it has made, either on its own motion or at the request of any of the parties. This Information Bulletin describes how the Board deals with a request for reconsideration that is made by one of the parties.

GENERAL GUIDELINES

Pursuant to Section 114(1) of the *Labour Relations Act*, the Board may in its discretion reconsider any decision if it considers it advisable to do so. Generally, the Board will not reconsider its decision unless:

- a) Where the decision contains an obvious error;
- b) Where the request raises important policy issues which have not been adequately addressed;
- c) Where new evidence is sought to be presented which could not, with the exercise of due diligence, have been obtained and presented previously, and which could, if accepted, make a difference to the decision; and
- d) Where representations are sought to be made which the party seeking reconsideration had no previous opportunity to make. (see for example: *Audio Visual Services (Canada) Corporation*, 2017 CanLII 85671 (ON LRB))

Because of the need for finality in labour relations matters, the Board does not treat its reconsideration power as either a tool for a party to repair the deficiency of its case nor as an opportunity to reargue it. (See *John Entwistle Construction Limited*, [1979] OLRB Rep. Nov. 1096.) If the requesting party relies on matters that could reasonably have been raised at the original hearing, the Board will normally not reconsider its decision.

FILLING OUT A REQUEST

Requests for reconsideration must be made on Form A-49 and must include complete representations in support of the request. The request must be filed with the Board no more than 20 business days after the date of the original decision. The request will not be considered if it is filed more than 20 business days after the date of the decision except with the permission of the Board.

FILING THE REQUEST

Before filing the request with the Board, the party making it must deliver a copy of the completed Request for Reconsideration and a Notice of Request for Reconsideration (Form C-24) to the other party(ies) that was involved in the original decision. The party making the request must fill in its name, the other party's name, and the Board File Number on page 1 and the date on page 2 of the Notice before making the delivery.

The materials may be delivered in accordance with Rule 6.4 of the Board's Rules of Procedure.

No later than five days (not including weekends, statutory holidays or any other day the Board is closed) *after* delivering the Request and the Notice to the other party, the party making the request must file one copy of its request with the Board. The request may be filed in any way other than by facsimile transmission, e-mail or registered mail. If the request is not filed with the Board within five days after delivering it to the other party, the matter will be terminated.

HOW A REQUEST FOR RECONSIDERATION IS PROCESSED

After a request for reconsideration is filed, it is reviewed by the Board to see if it raises any new matters upon which a decision to reconsider could be based. If it does not, or if it was filed too late, the request may be dismissed by the Board. If this happens, the parties are sent a Decision of the Board that sets out why it was dismissed. If the request does raise matters upon which a reconsideration could be based, and if it was filed on time, the Board may direct the other party involved in the case to file a response by a certain date. Once that date has passed, the Board reviews all of the submissions and issues a decision granting or dismissing the request. The Board usually does not hold an oral hearing when deciding requests for reconsideration.

The panel that decided the case originally is usually the panel that decides the reconsideration request. This is because the reconsideration power is not an "appeal" where the entire matter is reheard - the question is whether there is any new information, and the panel that heard the case originally is in the best position to make that determination.

IMPORTANT NOTE

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.